

IN RE: PETITION FOR VARIANCE
W/S Windsor Road, 75' N of
the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District
3rd Councilmanic District

Jake Rubinstein
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 97-52-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 902 Windsor Road, located in the vicinity of Milford Mill Road in Pikesville. The Petition was filed by the owner of the property, Jake Rubinstein. The Petitioner seeks relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a commercial vehicle of 15,000 lbs. GVW to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 pound vehicle in the side or rear yard. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition was Jake Rubinstein, owner of the property. Many of the residents from the surrounding community appeared in opposition to the Petitioner's request, all of whom signed the Protestant's Sign-In Sheet. The Protestants were represented by two residents of the community who are also attorneys, namely, Jeffrey B. Smith and Melanie Anson.

The property which is the subject of this request consists of 0.17 acres, more or less, and is improved with a two-story single family dwelling and attached garage. Mr. Rubinstein testified that he has been in business as a tow truck operator for many years and that he presently owns

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Date

By

9/17/96
[Signature]

and operates a 1991 Ford Rollback tow truck which is the subject of this variance request. Mr. Rubinstein testified that he has resided on the subject property since 1979 and that he has always stored a tow truck in front of his property on the macadam driveway which leads to the garage. He stated that the vehicle he now owns is the third tow truck he has owned over the years and that this particular truck was very expensive and is fully equipped for all towing needs. For security reasons, Mr. Rubinstein would like to continue parking his tow truck at his home. Mr. Rubinstein testified that he works with many businesses and can be reached by a beeper, which goes off all hours of the day and night. He testified that he is on call 24-hours a day and that he often comes home late at night. Due to the nature of his business, it is more efficient for him to keep his vehicle at home so that when he gets a tow call, he can simply leave his house, get into his truck, and go. Mr. Rubinstein would like to continue this practice rather than having to use his personal vehicle to drive to a location where his tow truck would be stored. He further testified that he has checked into parking at alternative locations near his home, but has been unsuccessful in finding a suitable site.

In support of his request, Mr. Rubinstein submitted a Petition which had been signed by many of his neighbors on Windsor Road, as well as others who live elsewhere in the community of Sudbrook Park. The neighbors who signed his Petition indicated that they have no objections to his parking the tow truck on his property. In addition, the Petitioner's neighbors who live next door to him at 904 and 906 Windsor Road, namely Sheldon Brahms and Brian Reynolds, attended the hearing and offered their full support to Mr. Rubinstein.

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By [Signature]

As noted above, many residents from the surrounding community appeared in opposition to the Petitioner's request. Among those residents who appeared were Leonard Frank, Melanie Anson, Richard Ottenheimer, and a Mr. Mosner, all of whom testified in opposition to the Petitioner's request. There were others in attendance who wished to testify; however, their testimony would have been basically cumulative of the previously identified individuals. The testimony offered by these Protestants demonstrated that the Board of Directors of the Sudbrook Club, the community association which was organized by the residents of Sudbrook Park, have had occasion to deal with this particular issue over the past 15 years. The Protestants offered into evidence as Protestant's Exhibit 2, the minutes of the meeting of the Sudbrook Club Board of Directors, dated August 26, 1981. Those minutes reflect that Mr. Rubinstein's tow truck had been an issue raised before the Board at that time. The issue was never fully resolved at that meeting; however, it was discussed that Mr. Rubinstein would seek a garage in which to store his tow truck. The minutes from that meeting also reflect that the topic of Mr. Rubinstein's tow truck was also discussed in September of 1979, November of 1979, November of 1980 and June of 1981. Furthermore, testimony indicated that since this Board of Directors' meeting in August, 1981, there were several other occasions over the years at meetings of the Sudbrook Club wherein the issue of this tow truck was brought up for discussion. Ms. Anson testified that there were many other issues affecting the community that took priority over Mr. Rubinstein's tow truck. There were times over the years where the issue of Mr. Rubinstein's tow truck was placed on the "back burner", given more pressing matters faced by the community. However, in September, 1995, the community, through its Board of Directors once again,

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Date

By

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brought forth a motion to take steps to resolve the issue of Mr. Rubinstein's tow truck once and for all. This lead to the filing of the instant Petition by Mr. Rubinstein. It further lead to a full-fledged zoning sweep of the Sudbrook Park community wherein many other zoning violations were addressed.

In further support of their position, the Protestants submitted into evidence as Protestants' Exhibit 1, a photographic montage of the community. Many of the photographs concentrate on Mr. Rubinstein's house in particular; however, several other photographs show that the community is very attractive, well-maintained, and a nice place to live, as was corroborated by the many witnesses who testified, both for and against the Petitioner's request. The Protestants believe that allowing the storage of this tow truck on Mr. Rubinstein's property will infringe upon and contradict the residential quality and character of this community. The Protestants have asked that Mr. Rubinstein remove the tow truck from his property and find a suitable storage site for this vehicle.

After due consideration of the testimony and evidence offered by Mr. Rubinstein, as well as the Protestants, I am compelled to deny the relief requested. The evidence shows that this issue has been raised several times over the course of the past 17 years by the Sudbrook Club and for whatever reason, the issue was never resolved. As noted above, the evidence presented shows that Sudbrook Park is a very nice residential community, much of which is listed on the National Register of Historic Districts. To allow a tow truck to be stored on Mr. Rubinstein's property would be adverse to the general welfare of this community and would be inconsistent with its location on the National Register of Historic Districts. While it is true that Mr. Rubinstein's particular property at 902

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Date 11/2/86
By [Signature]

Windsor Road borders this historic district, it is in close enough proximity so as to affect the overall character of that historic district. For these reasons, as well as those presented at the hearing, the relief requested shall be denied and the Petitioner shall be required to cease parking the tow truck on his property.

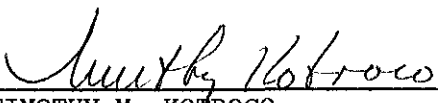
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held and for the reasons given above, the Petition for Variance must be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of September, 1996 that the Petition for Variance seeking relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a commercial vehicle of 15,000 lbs. GVW to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 pound vehicle parked in the side or rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petitioner shall have thirty (30) days from the date of this Order in which to find an alternative location for storing this vehicle, after which he must cease parking the subject vehicle on his property; and,

IT IS FURTHER ORDERED that the Petitioner shall have thirty (30) days from the date of this Order to file an appeal of this decision.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date 9/17/96

By [Signature]

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	
<u>JAKE RUBINSTEIN -Petitioner</u>	*	COUNTY BOARD OF APPEALS
FOR A VARIANCE ON PROPERTY	*	
LOCATED ON THE WEST SIDE	*	OF
WINDSOR ROAD, 75' NORTH OF THE	*	
CENTERLINE OF CARYSBROOK ROAD	*	BALTIMORE COUNTY
(902 WINDSOR ROAD)		
2ND ELECTION DISTRICT	*	CASE NO. 97-52-A
3RD COUNCILMANIC DISTRICT		
* * * *	*	* * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County based on an appeal by the Appellant whereby the Petitioner is seeking relief from Section 431 of the Baltimore County Zoning Regulations (BCZR) to permit a commercial vehicle of 15,000 lbs. to be parked in the front yard of his property in lieu of the maximum permitted 10,000 lbs. in the side or rear yard. The Deputy Zoning Commissioner for Baltimore County had denied the variance relief requested by Order dated September 17, 1996.

The Appellant, Mr. Jake Rubinstein, testified in support of the variance. He indicated that he owned a 14,500 lb. roll-back towing vehicle used in his business that he normally parks on his driveway at the subject property, 902 Windsor Road, which is situated in the Sudbrook Park area of Baltimore County. He indicated that he operates his business essentially from his home; and was required to respond to his clients' towing requests as soon as they are received on his pager. He stated that he had resided at the Windsor Road property for approximately 18 years, and has always had a commercial vehicle parked on the premises. The Petitioner explained that, while Sudbrook Park is located in the National Register of Historic Districts, his property was slightly

outside the boundaries of that District. Mr. Rubinstein indicated that he had always attempted to park the truck in the driveway as infrequently as possible, since he works 10 to 12 hours a day. He stated that there were two residences across the street from his property; and described other homes in proximity to his. Petitioner's Exhibits No. 1, 2 and 3 were admitted into evidence, detailing deed descriptions of 904 Windsor Road, 906 Windsor Road, and 908 Windsor Road. All of these properties reflected the original sale prices of the various properties and subsequent indications that the various properties had increased in value from the original dates of purchase.

The Appellant did not believe that the on-site parking of his truck had had any detrimental effect on the immediate neighborhood by reason of the appreciation on the houses recently sold in the area as reflected on the deeds. Appellant's Exhibits No. 4 and 5 were admitted into evidence, reflecting the Petitioner's truck and other commercial vehicles and Mr. Rubinstein related the various comparisons between the various commercial vehicles. The Petitioner stated that he had made extensive efforts to find another area in which to park the tow truck, but had not been successful. Those areas that he had searched were either not secure for his truck or in sections of the County that were not safe for him to travel at night, or were not accessible during the times that he might be required to tow a disabled vehicle. Petitioner's Exhibit No. 6 was admitted reflecting various newspaper articles outlining the Sudbrook area as a "good place to

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live." The Petitioner stated that the presence of his one tow truck could not have any serious impact on the livability aspects of Sudbrook Park.

On cross-examination by Mr. Holzer, the Petitioner admitted that he was aware of the limitations imposed by Baltimore County relative to his tow truck; and the 10,000 lb. GVW imposed on such vehicles. He stated that in September 1995 he had received a letter from the Sudbrook Community Association relative to the tow truck parking, which first objection went back as far as 1982. He stated that he had met with an officer of the Association, Mr. Frank, and realized he was in violation of the parking restriction. He again restated that he only owned this one vehicle but did have a trailer parked at Liberty and Millford Road, but it was not the safest area to park the towing vehicle. The Petitioner further described his property as perpendicular to Windsor Road with a small garage used for limited storage. He was never aware that he could apply for a variance, but admitted that the other houses in the area were basically of the same configuration as his, and that some garages had been converted to smaller, private residences. He stated that the size of his lots were about 6 feet to 8 feet to the property line; and, while his home was not in the Historic District, it was immediately on the other side of the street delineating the District. He restated that the truck was only present on the property at night and on Sundays, and also that he frequently worked a full six days a week. The Petitioner indicated that he did not perform any work on the vehicle on the premises and

that he was a member of a local towing organization, but he was not aware of any formal areas that had been designated by the towing organization on which vehicles such as his could be stored when not in use.

In closing, Petitioner stated that the towing vehicle was needed to be parked on his property essentially to provide clients' service when he was called on his pager, and he also felt that the vehicle would be more secure if he could monitor its presence on the property. Petitioner's Exhibits 7, 8 and 9 were submitted to the Board for consideration and represented comments from local neighbors in which they did not register any specific complaint about the towing vehicle being parked on Petitioner's property.

Mr. Thomas A. Hayden, 1004 Kingston Road, Pikesville, also testified on behalf of the Petitioner and indicated that his property was outside the Historic District and that he had moved to the area in 1991. He stated that he had purchased his home in the Sudbrook area for \$90,000 and was fully aware of the Petitioner's towing operation, and of the vehicle being parked on Petitioner's property. He indicated that he did not have any difficulty with the truck being there.

Mr. Brian H. Reynolds, 904 Windsor Road, the Petitioner's next-door neighbor also testified on behalf of the Petitioner and indicated he had purchased his home in the area because Sudbrook was fine residential area, and that he was aware of the commercial vehicle being parked on the premises, but that this did not affect his lifestyle.

Mr. Eddie James Jones, 7 Greenwood Road, also testified on behalf of the Appellant. He indicated he had purchased his home in 1980, was aware of the vehicle, and did not have any difficulty with it being parked in the residential area. On cross-examination, Mr. Jones indicated that he lived about 10 blocks away from the Petitioner's property, and that he uses the Petitioner's towing service.

That finalized the Appellant's case-in-chief, at which point in time Mr. Holzer moved for dismissal of the matter based on the fact that the Appellant had not produced any testimony or evidence that would enable this Board to grant the variance, in light of Section 301.7 of the Baltimore County Zoning Regulations; and also the variance guidelines that have been established by the Court of Special Appeals and the Court of Appeals in both Cromwell v. Ward and the Chesterhaven cases. The Board adjourned for approximately 15 minutes and reconvened, at which time the Motion to Dismiss was granted. Section 307.1 of the BCZR specifically states that a variance may only be granted in cases where special circumstances exist that are peculiar to the land or structure that is the subject of the variance request, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship; and, further, such a variance may be granted only if in strict harmony with the spirit and intent of the subject regulations, and only if it does not do injury to the public health, safety and general welfare.

In accordance with the decision rendered in the Cromwell v.

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Ward case, it is first necessary that this Board establish that there are special circumstances that exist that are peculiar to the land or structure that is the subject of the variance request, and if that cannot be established by the testimony and evidence produced at the hearing, the Board is not required to probe any further relative to the practical difficulty or unreasonable hardship issue. It was very clear and conclusive to all the Board members that the Petitioner had failed to meet that burden and had not demonstrated in any way that either the land or structure was in any way different than any other dwelling or land areas in the immediate community; and, indeed, by the Petitioner's own admission, the housing in the general area of the subject property was basically the same configuration. Additionally, the Appellant indicated that the only reasons the vehicle was being parked on his property was essentially for his own convenience and security purposes, but there was no conclusive evidence that the vehicle could not be parked elsewhere.

For all of these reasons, the Board will deny the Appellant's Petition for Variance.

O R D E R

THEREFORE, IT IS THIS 17th day of April, 1997
by the County Board of Appeals of Baltimore County

ORDERED that the request for variance from Section 431 of the Baltimore County Zoning Regulations (BCZR) to permit a commercial vehicle of 15,000 lbs. to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 lbs. in

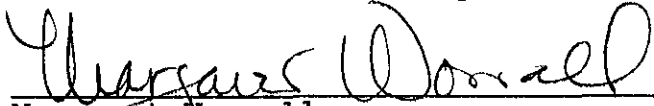
the side or rear yard be and is hereby DENIED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

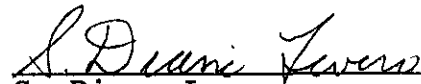
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Charles L. Marks, Acting Chairman



Margaret Worrall



S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 17, 1997

Lee R. Jacobson, Esquire
JACOBSON & MYERBERG, P.A.
Suite 320, 502 Washington Avenue
Towson, MD 21204-4523

RE: Case No. 97-52-A
Jake Rubinstein -Petitioner

Dear Mr. Jacobson:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Legal Administrator

encl.

cc: Jake Rubinstein
J. Carroll Holzer, Esquire
Jeffrey B. Smith
Melanie Anson
Leonard Frank
Richard L. Ottenheimer
Lee R. Jacobson, Esquire
People's Counsel for Baltimore County
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



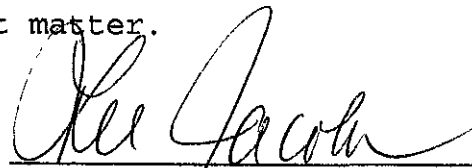
IN RE: PETITION FOR VARIANCE * BEFORE THE
W/S Windsor Road, 75' N of * ZONING COMMISSIONER
the c/l of Carysbrook Road * OF BALTIMORE COUNTY
(902 Windsor Road) * Case No.: 97-52-A
2nd Election District *
3rd Councilmanic District *
Jake Rubenstein *
Petitioner *

* * * * *

NOTICE OF APPEAL

Please enter the appearance of Lee R. Jacobson and Jacobson & Myerberg, P.A. on behalf of the above captioned Petitioner.

Please note an appeal to the County Board of Appeals of Baltimore County from the September 17, 1996 decision of the Deputy Zoning Commissioner in the instant matter.



LEE R. JACOBSON
JACOBSON & MYERBERG, P.A.
Suite 320, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
828-7090

MICROFILMED

LAW OFFICES
JACOBSON & MYERBERG, P.A.
SUITE 320, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 828-7090
FAX (410) 828-7012

LEE R. JACOBSON
HENRY J. MYERBERG

October 16, 1996

Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

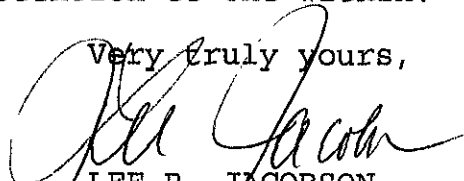
Re: PETITION FOR VARIANCE
W/S Windsor Road, 75' N of
the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District
3rd Councilmanic District
Jake Rubenstein, Petitioner
Case No.: 97-52-A

Dear Mr. Jablon:

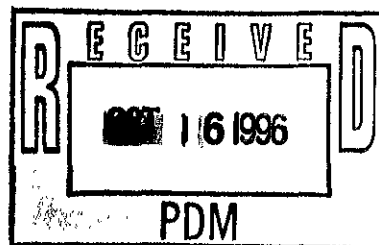
Please find enclosed Notice of Appeal to the County Board
of Appeals for Baltimore County for filing in the above
captioned matter.

Thank you for your kind attention to the within.

Very truly yours,


LEE R. JACOBSON

LRJ:mcm
Enclosure
cc: Mr. Jake Rubenstein



[Handwritten signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

September 17, 1996

Mr. Jake Rubinstein
902 Windsor Road
Baltimore, Maryland 21202

RE: PETITION FOR VARIANCE
W/S Windsor Road, 75' N of the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District - 3rd Councilmanic District
Jake Rubinstein - Petitioner
Case No. 97-52-A

Dear Mr. Rubinstein:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Jeffrey B. Smith, 607 Sudbrook Road, Baltimore, Md. 21208

Ms. Melanie Anson, 1007 Windsor Road, Baltimore, Md. 21208

Mr. Leonard Frank, 612 Clivedon Road, Baltimore, Md. 21208

Mr. Richard L. Ottenheimer, Carysbrook Road, Baltimore, Md. 21208

People's Counsel; Case File



RE: PETITION FOR VARIANCE
902 Windsor Road, W/S Windsor, 75' N of
c/l Carysbrook Road
2nd Election District, 3rd Councilmanic

Jake Rubinstein
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 97-52-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 1996, a copy of the foregoing Entry of Appearance was mailed to Jake Rubinstein, 902 Windsor Road, Baltimore, MD 21208, Petitioner.



PETER MAX ZIMMERMAN

MACROFILMED

45



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 902 Windsor Rd.
97-52-A which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 431 to permit a commercial vehicle of 15,000 pounds parked in the front yard in lieu of the maximum 10,000 pounds and side or rear yard.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty) * Security of truck
* Truck must be at my immediate disposal for job duties
* Current law does not permit me the option to store truck in garage even if that were possible (anywhere in neighborhood.)

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address Phone No

City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Legal Owner(s):
Jake Rubinstein

(Type or Print Name)
Jake Rubinstein

Signature

(Type or Print Name)

Signature

902 Windsor Rd.

Address Phone No
Balto. Md. 21208

City State Zipcode
Name, Address and phone number of representative to be contacted.

Jake Rubinstein

Name
902 Windsor Rd. 653-5253

Address Phone No.

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING 3 hr.

unavailable for Hearing
the following dates _____ Next Two Months
ALL _____ OTHER _____
REVIEWED BY: MSH DATE 8/1/96



ORDER RECEIVED FOR FILING
Date 8/1/96
By [Signature]

Printed with Soybean Ink
on Recycled Paper

Zoning Description

3 COPIES

Three copies of the zoning description of your property are required. This is a sample to help you with the description. DO NOT USE THIS FORM FOR "FILL IN THE BLANKS". Type or print the description on 8 1/2" x 11" paper. COPIES OF DEEDS CANNOT BE USED FOR THE DESCRIPTION. The zoning description must be in the following form:

97-52-A

ZONING DESCRIPTION FOR 902 Windsor Rd.
(address)

BEGINNING for the same on the westernmost side of Windsor Road at the distance of 50 feet northerly measured along the westernmost side of Windsor Road from the northernmost side of Carysbrook Road and running thence northerly binding on the westernmost side of Windsor Road by a curve to the right having a radius of 662.39 feet, 50 feet to Lot No. 20 of Section 1 on the Plat hereinafter referred to, thence South 84 degrees 54 minutes 47 seconds West binding on said Lot No. 20, 140.12 feet to Lot No. 17 of Section 1 on said Plat, thence South 5 degrees 38 minutes East binding on said Lot No. 17, 60.67 feet to Lot No. 18 Section 1 on said Plat and thence North 80 degrees 35 minutes 17 seconds East binding along said Lot No. 18, 141.83 feet to the place of beginning.

BEING Lot No. 19, Section 1, as shown on the Revised Plat of a Portion of Sudbrook Park, which Plat is recorded among the Land Records of Baltimore County in Plat Book C.W.B. Jr. No. 12, folio 51. The improvements thereon being known as No. 902 Windsor Road.

BEING the same lot of ground described in a Deed dated of even date herewith and recorded or intended to be recorded immediately prior hereto among the Land Records of Baltimore County, which was granted and conveyed by Noel Gregory Silberberg and Sandra R. Silberberg, his wife unto Jake H. Rubinstein, one of the within named Borrowers.

Block ... Section # 1 in the subdivision of Sudbrook Park
(name of subdivision)
as recorded in Baltimore County Plat Book # 12, Folio # 51.
containing 0.17 (square feet or acres) Also known as 902 Windsor Rd.
(property address)
and located in the 2 Election District, 3 Councilmanic District.

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CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

97-52-X

District 2nd

Posted for: 9/6/96 Stearns

Date of Posting 9/6/96

Petitioner: Jackie K. Steinert

Location of property: 902 Windsor Road

Location of Sign: (Front yard)

Remarks: _____

Posted by WLF

Signature

Wayne P. WLF

Date of return: _____

Number of Signs: 1



NOTICE OF HEARINGS

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland, 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case #97-52-A

(Item 45)

902 Windsor Road
W.S. Windsor, 25' N. of of
Carysbrook Road,
2nd Election District
3rd Councilmanic
Legal Owner(s):
W.S. Windsor

Proposed to permit a commercial use of 65,000 square feet in the front yard in 65 of the maximum 10,000 pounds and side or rear yard.
Hearing: Friday, September 6, 1996 at 9:00 a.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible for
special accommodations.
Please Call 887-3353.

(2) For information concerning the File and/or Hearing,
Please Call 887-3391.

8/23/96 Aug 22

C76154

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on Aug 22, 1996

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

A. H. Enick

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 028015

DATE 10/17/96 ACCOUNT R-001-6150

AMOUNT \$ 210.00

RECEIVED FROM: Jacobson & Myersberg, P.A.

FOR: Appeal Case # 97-52-A

MICROFILMED

01A00W0048MICHRC

\$210.00

BA COLL:25AM10-17-96

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

KYE

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 123573

DATE 7/30/96 ACCOUNT 01-615

Item 45

By: 225X

AMOUNT \$ 85.00

RECEIVED FROM: Jake's Towing - 902 Windsor Rd.

010. Res Vehicle - \$50.00

080. 1 sign posting - \$35.00

FOR: \$85.00

97-52-A

01A00W0032MICHRC

\$85.00

BA COLL:21AM07-30-96

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

MICROFILMED



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 45 Petitioner: Jack Rubinstein
Location: 902 Windsor Rd.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Jack Rubinstein
ADDRESS: 902 Windsor Rd.
Balto. MD. 21208
PHONE NUMBER: (410) 653-5253



CERTIFICATE OF POSTING

RE: Case No.: 97-52-A

Petitioner/Developer: _____

Date of Hearing/Closing: _____

Baltimore County
~~Planning and Zoning Department~~
~~County Office Building~~
~~111 West Chesapeake Avenue~~
~~Towson, MD 21204~~

BOARD OF APPEALS

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at _____

902 WINDSOR RD

The sign(s) were posted on _____

12/20/96

(Month, Day, Year)

Sincerely,

J. L. J. 12/20/96

(Signature of Sign Poster and Date)

JOSEPH GLORIOSO, Jr.

(Printed Name)

111 W. CHESAPEAKE AVE

(Address)

BALTIMORE, MD 21204

(City, State, Zip Code)

(410) 887-5885

(Telephone Number)

TO: PUTUXENT PUBLISHING COMPANY
August 22, 1996 Issue - Jeffersonian

Please forward billing to:

Jake Rubinstein
902 Windsor Road
Baltimore, MD 21208
653-5253

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-52-A (Item 45)
902 Windsor Road
W/S Windsor, 75' N of c/l Carysbrook Road
2nd Election District - 3rd Councilmanic
Legal Owner(s): Jake Rubinstein

Variance to permit a commercial vehicle of 15,000 pounds parked in the front yard in lieu of the maximum 10,000 pounds and side or rear yard

HEARING: FRIDAY, SEPTEMBER 6, 1996 at 9:00 a.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

HYD. REF POINT	Qa Qt	DIA, "C" Pf/Γ	FITTING or Eqv. Ln.	PIPE FTNG'S TOTAL	Pt Pe Pf	Pt Pv Pn	***** NOTES *****
	0.00	1.049	1T	5.00	1.00	14.89	14.89
34		C=120	0.00	5.00	0.00	0.00	
	16.75	0.0933	0.00	6.00	0.56	0.00	Vel = 6.22
31	16.75				15.45		K = 4.261
	15.44	2.635	0.00	8.00	13.07	13.07	
35		C=120	0.00	0.00	0.00	0.00	
	15.44	0.0000	0.00	8.00	0.00	0.00	Vel = .91
	29.34	2.635	0.00	5.00	13.07	13.07	
36		C=120	0.00	0.00	0.00	0.00	
	44.78	0.0080	0.00	5.00	0.04	0.00	Vel = 2.63
	15.47	2.635	0.00	5.00	13.11	13.11	
37		C=120	0.00	0.00	0.00	0.00	
	60.23	0.0100	0.00	5.00	0.05	0.00	Vel = 3.54
	55.32	2.635	0.00	7.00	13.16	13.16	
38		C=120	0.00	0.00	0.00	0.00	
	116.07	0.0385	0.00	7.00	0.27	0.00	Vel = 6.83
	15.66	2.635	0.00	6.00	13.43	13.43	
39		C=120	0.00	0.00	0.00	0.00	
	131.73	0.0483	0.00	6.00	0.29	0.00	Vel = 7.75
	59.15	2.635	0.00	4.00	13.72	13.72	
40		C=120	0.00	0.00	0.00	0.00	
	190.88	0.0950	0.00	4.00	0.38	0.00	Vel = 11.23
	16.07	2.635	0.00	6.00	14.10	14.10	
41		C=120	0.00	0.00	0.00	0.00	
	206.35	0.1100	0.00	6.00	0.66	0.00	Vel = 12.18
	30.36	2.635	0.00	8.00	14.76	14.76	
42		C=120	0.00	0.00	0.00	0.00	
	237.81	0.1437	0.00	8.00	1.15	0.00	Vel = 13.99
	67.74	2.635	2L	8.50	9.00	15.91	15.91
43		C=120	0.00	8.50	0.00	0.00	
	305.35	0.2274	0.00	17.50	3.98	0.00	Vel = 17.98
	0.01	2.635	0.00	6.00	19.89	19.89	
44		C=120	0.00	0.00	0.00	0.00	
	305.36	0.2266	0.00	6.00	1.36	0.00	Vel = 17.98
	-0.01	2.469	1T	7.83	22.00	21.25	21.25
45		C=120	0.00	7.83	0.00	0.00	
	305.55	0.3121	0.00	29.83	9.31	0.00	Vel = 20.48

UNITS - DIAMETER (INCH)

LENGTH (FOOT)

FLOW (GPM)

PRESSURE (PSI)



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 15, 1996

NOTICE OF HEARING

COPY

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-52-A (Item 45)
902 Windsor Road
W/S Windsor, 75' N of c/l Carysbrook Road
2nd Election District - 3rd Councilmanic
Legal Owner(s): Jake Rubinstein

Variance to permit a commercial vehicle of 15,000 pounds parked in the front yard in lieu of the maximum 10,000 pounds and side or rear yard

HEARING: FRIDAY, SEPTEMBER 6, 1996 at 9:00 a.m. in Room 106, County Office Building.

Arnold Jablon
Director

cc: Jake Rubinstein
Councilman Kevin Kamenetz
Leonard Frank
Earl D. Collins
Richard Ottenheimer

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 13, 1996

NOTICE OF ASSIGNMENT

CASE #: 97-52-A

IN MATTER OF: JAKE RUBINSTEIN -Petitioner
902 Windsor Road 2nd Election; 3rd Councilmanic
(Petition for Variance DENIED.)

ASSIGNED FOR: WEDNESDAY, MARCH 26, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellant /Petitioner: Lee R. Jacobson, Esquire
Appellant /Petitioner : Jake Rubinstein

Protestants : Jeffrey B. Smith
Melanie Anson and Sudbrook Park, Inc.
Leonard Frank
Richard L. Ottenheimer
J. Carroll Holzer, Esquire
Counsel for Protestants:
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

Entered
appearance
2/25/97



CASE NO. 97-52-A

W/s Windsor Road, 75' N of the c/l of
Carysbrook Road (902 Windsor Road)

2nd District

Appealed: 10/16/96

(see attached copy
of vicinity map)

Celebrating a suburban genius

BY JEFF STIMPSON

Frederick Law Olmsted was more than just another neighborhood planner.

"He was really an artist," says Catherine Mahan, landscape architect and president of the Mt. Washington-based firm Mahan Rykiel Associates. "Now so many of his ideas are so commonplace, we think what's all the fuss about."

That fuss will be the center of two events in the next couple of weeks honoring Olmsted, designer of Pikeville's Sudbrook Park and such other national landmarks as Manhattan's Central Park, Chicago's Riverside community, and several national parks.

The symposium "Sudbrook and the Olmsted Tradition of Community Design in the Baltimore Area" will be at the Maryland Historical Society on Sunday, Nov. 10.

One of the symposium speakers, Mahan will examine Sudbrook as Olmsted's premier residential community in Maryland, and look at the principals behind the 1889 design.

This event is co-sponsored by Sudbrook Park Inc., The Maryland Historical Society, The Baltimore County Historical Trust, and Friends of Maryland's Olmsted Parks and Landscapes.

The latter will also sponsor a two-hour tour at Sudbrook Park on Saturday, Nov. 16.

The symposium kicks off an exhibit and the publishing of two books on Sudbrook Park, both spurred by recent grants.

New interest in Olmsted, however, has been spurred by America's new passion for suburbs.

"The sprawling American suburban development — it's really a disaster — is not the way suburban development was meant to be," notes Matthew Mosca, board member of Friends of Olmsted.

"Sudbrook Park is a superb example of what suburban

three residential communities in still stand. Sudbrook Park remains the local example of how the genius worked his curved streets, public greenery, set-back homes, and pure sight lines. Olmsted's eye for the landscape always favored tucking in a street, rather than inflicting a thoroughfare.

Before the native of Hartford, Conn., died in 1903, he had stamped 20th-century residential development coast-to-coast with his use of such details as greenways and traffic flow.

"The plans for Central Park were the first time pedestrian traffic and vehicular traffic were separated," Mahan says. "It's impossible to go anywhere in this country and not see his fingerprints."

His influence also spread to less popular points of suburban living. Namely, restrictions.

In Sudbrook, it was no pigs in yards. No more than two horses per family. No high hedges. The Gilded Age equivalent of no Christmas lights and no blue paint on the garage door.

But even Olmsted's design couldn't stem changes nearby. When the road near the one-lane bridge into the neighborhood was widened, Mahan notes, trees precious to the original plan were scraped away.

"People will change something, and it will really have an effect on the overall character," she says.

Maybe Baltimore County has figured out it has history in its lap. Early last month, the County Council recently enacted a resolution to form a community action plan and task force for Sudbrook Park, and Mahan would be proud of such vision.

The Nov. 10 symposium is free and will be at the Maryland Historical Society, 701 W. Monument St., from 2 p.m. to 4:30 p.m. Reception follows. Call 685-2750.

LIVING

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l communities that Sudbrook Park remains a prime example of how the gentleman's curved streets, potted-set-back homes, and greenways. Olmsted's eye on always favored luck, rather than inflation.

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with the County Council

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be proud of such

The symposium is free at the Maryland His-

is, 201 W. Monument st. to 4:30 p.m. Recep-

Call 685-3750.

ation on the Sudbrook



PHOTO COURTESY STEWART MCLEAN

The work of landscape architect Frederick Law Olmsted is being featured in a tour of Sudbrook Park on Nov. 16 and an exhibit at the Maryland Historical Society now through Nov. 17. This home, in the 500 block of Sudbrook Road — shown here in this 1897 photo and picturing the owners, the Samuel Kemp Merrick family — is featured on the tour. Tour information, call 235-3378. Exhibit, 685-3750.

Sudbrook Park on display at Md. Historical Society

Sudbrook Park in Pikesville will be the subject of an exhibition to open on this week at the Maryland Historical Society.

"Olmsted's Sudbrook: The Making of a Community," will open on Friday, Oct. 18 and continue through Nov. 17.

Featured in the exhibition will be photographs of the original cottages, maps and historical artifacts of Sudbrook Park, which was founded by Frederick Law Olmsted.

Olmsted, considered the pre-eminent landscape architect of his time, was a co-designer of New York City's Central Park. He was asked to design a suburban village on 850 acres of land in Pikesville.

The result in 1890 was Sudbrook Park — nine cottages, a hotel, and an abundance of trees designed to create a natural haven.

After more than a century of changes, Sudbrook Park remains an historically important community.

The Maryland Historical Society has planned a symposium, reception and a walking tour on Sunday, Oct. 20 at 2 p.m. to celebrate the exhibit. For more information, call the Baltimore County Historical Trust at 832-1812.

I tree-lighting highlights the season



The holiday season brings another traditional seasonal event to Sudbrook Park: the annual Christmas tree-lighting which took place this year on the evening of Sunday, Dec. 8.

The gathering of the community to light the large fir tree near the entranceway is a custom that began in the 1940s. Although the location of the tree has changed from the Howard Road triangle to the Sudbrook/Windsor Road triangle, the custom continues. A copy of a newspaper article in the community association's archives (marked only "1950s") shows a large crowd gathered around a 75-foot tree in Sudbrook Park and notes: "This is the tallest community Christmas tree in Baltimore County, it is reported."

Forty years ago, the lighting ceremony included an invocation by the pastor of Milford Mill Church and special Christmas music featuring Milford Mill Church choruses. Santa Claus arrived with gifts for children. Residents food and clothing donations collected for distribution to the needy.

Under the auspices of "The Sudbrook Club," the holiday season for Sudbrook Park residents was active and memorable. There was the judging of outside decorations, a holiday pot luck dinner — held for many years at the old Ames Methodist Church and which often included carols by the then Milford Mill High School chorus. Jan. 6, was the "Twelfth Night Tree Burning." Two long-time Sudbrook Park residents, Dorothy Diehl and Sally Gracie, vividly recall residents "dragging" their Christmas trees to the Adana/Windsor and Kingston roads intersection for the event, which was always supervised by the fire department. (Later, tree-burning activities were moved to the McHenry playground; by the 1980s, the practice had ceased for environmental reasons.)

Sally Gracie, who grew up in Sudbrook Park, remembers the small, cone candles children held as they sang carols at the tree

lighting, and her father going door to door to collect donations, as well as the "50-foot" fire when discarded trees were set ablaze.

Dorothy Diehl, the third resident on Adana Road in 1940, says that recollections of the tree lighting, tree burning and festive houses are still among her grown daughter's "favorite memories."

While the judging of decorations, the tree-burning and the holiday dinners are past, the annual tree-lighting remains one of Sudbrook Park's cherished traditions.

Santa still arrives amidst the changing of bells. It is a night to gather with friends and neighbors, enjoy hot cider and cookies, contribute donations for the needy, sing carols and watch as Sudbrook Park's welcoming evergreen is set aglow with its multitude of white lights. This year, the crowd gathered on the porch of Darragh and Ed Brady for refreshments.

Whichever holidays you celebrate at this time of year, may they be joyful and the start or continuation of a meaningful tradition.

► The Sudbrook/Olmsted Symposium and Exhibit are now successfully completed. About 175 people attended the symposium, and many more, in four weeks, viewed the exhibit at the Maryland Historical Society.

In addition to eliciting positive comments, the Nov. 10 symposium reunited numerous former and present Sudbrook Park residents. One Windsor Road house boasted four "generations" of former residents in attendance, who had lived in the house between 1915 and 1996. Cumulatively, that added up to a lot of memories! Attendees traded reminiscences at the beautiful post-symposium reception that was co-chaired by Sudbrook's own "Martha Stewarts," Janet Landay and Joe Anne Bauman. As with other events of this magnitude, many people worked behind the scenes to make these events so successful. Thanks to each and everyone who assisted and participated!

► Sudbrook Park has formed a Plan Advisory Group to work with Baltimore County on a comprehensive plan for the community. If you are interested in serving on a committee to assist with this effort, or if you have suggestions, problems or ideas to share, call me!



THE
BEST

PLACES TO LIVE

AN REMEMBERED

more

JULY 1995 • \$3.50

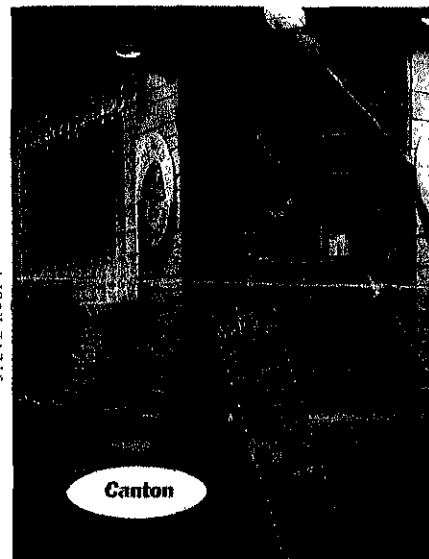
9th
annual



BEST of MORE



STEVE RUBIN



Canton

resident Betty Newcomb. At press time, the best house for gardening was on the market, its owners ready for smaller digs.

"It's great for someone who loves roses," because the one-acre lot is unusually sunny, confides Newcomb. "I tried to talk my husband into looking at it."

NEIGHBORHOOD TO WALK TO SCHOOL

Rodgers' Forge. At longest, it's a 10-minute trudge through this brick-and-slate enclave to Rodgers' Forge Elementary or Dumbarton Middle School—"unless kids lag or fool around," says resident Honey Holston. Lollygagging must be a constant temptation, given the demographics in this neighborhood south of Towson. "There are always big gaggles of children," says Holston. Plus, no stop lights and no big roads until you get to Towson High, a slightly longer walk.

NEIGHBORHOOD TO USE A WHEELCHAIR

Downtown. This was a toughie: We couldn't find any place where it was *easy* to maneuver a wheelchair or a stroller. (One group of advocates makes sure business owners near Lauraville include wheelchair access when they do renovations, but that's a long-term gig.) Folks on wheels say the most accessible part of Baltimore is its oldest: downtown, between Key Highway and Mt. Vernon.

LITTLE-KNOWN NEIGHBORHOOD WITH BIG-NAME PLANNING

Sudbrook Park. On Frederick Law Olmsted's devastating march across Maryland—no, wait, on his helpful visits during the 1890s—the Father of all Suburbs laid out the then-revolutionary Roland Park. He also dashed off plans for a summer resort northwest of town. Today, that resort is Sudbrook Park, an elegant neighborhood

Neighborhood Profile

After a century, still a planned community

In Sudbrook Park they treasure trees, freedom from crime

By BETTE REINHARD
SPECIAL TO THE SUN

It too frequently happens that a single owner, acting within the strict letter of the law, materially ignores the nature of adjoining property, either by construction of undesirable buildings or objectionable use of those already erected. To prevent the possibility of such a misfortune, the company has adopted restrictions as to the character, location and occupancy of buildings.

So reads an 1890 brochure promoting the first home sales in Sudbrook Park.

As one of the first planned communities in Maryland, Sudbrook Park established needed restrictions on setbacks and lot size that laid the foundation for modern zoning ordinances.

More than a century later, the 204-acre residential community west of Pikesville is committed to preserving the



BARBARA HARRISON: SUDBROOK PARK

Sudbrook stroll: Len and Irma Frank, who are co-presidents of the Sudbrook Park Community Association, take a stroll through their neighborhood.

charm and serenity envied by its legendary architect, Frederick Law Olmsted.

Sudbrook Park's neighborhood association has re-

ceived a \$9,300 grant from the Maryland Humanities Council to publish two books — one by Melanie Anson on the community's history, the other by Betty Frank on community life — and organize an exhibit and a symposium.

The community also is providing itself and trying to raise additional money to

Sudbrook Park



Sudbrook Park

Population: 550 households
Commuting time to downtown Baltimore: 25 minutes
Public schools: Bedoni Elementary, Pikesville Middle, Sudbrook Magnet Middle and Milford Mill Academy
Shopping: Pikesville shopping centers, Owings Mills Mall
ZEP code: 21268

Average price of a single-family home: \$126,400*

*Based on 24 sales through Mid Atlantic Real Estate Information Technologies' multiple listing service during the past 12 months.

Sudbrook Park is one for the books

Sudbrook exhibit

(Continued from Page 11)

rite publication of the books
igh Sudbrook Park T-shirt
e don't want to be the only
who understand that Olm-
was the foremost landscape
ect," said Anson, who gave
v practice to concentrate on
ig.

lmsted created national
ures."
nmsted is probably best
a for designing Central Park
v York.

the Baltimore area, his sons
ed Roland Park, Guilford
land, Gibson Island and
900 homes and a town
e in Dundalk.

nmsted trademarks include
lant trees, an entranceway
t, green spaces, strict deed
tions, mixed lot sizes and
near streets.

ey aren't just curvy streets,"
nson, walking through the
neighborhood on a recent
ig.

ey merge into the landscape
ill you on."
ts, poplars, alms, chestnuts
ple trees create the neigh-
od's lush, woodsy feel.

homes include shingled
Colonials; others that are
Anne-styled with turrets,
st-World War II brick Colo-

on, who has lived in Sud-
Park since 1970, said she
t recall the suburb's last
yor car theft.

imore County police said
en has a community patrol
and crime there has de-
d in recent years.

nes on the market range in
rom \$115,000 to \$269,000,
ose Jaeger, a real estate
with O'Connor, Piper &

a nice, stable neighbor-
where there's not a lot of
er at one time because peo-
it so much," Jaeger said.

as a certain charm because
sets meander, there's a lot
le trees and not much traf-

brook Park's history dates
, when Olmsted was asked
a village on the Sudbrook
owned by gentleman farm-
es Howard McHenry. (Fort
ry was named for his
ther James McHenry

secretary of state.)

After McHenry's death in 1888,
a group of Boston and Philadel-
phia capitalists formed the Sud-
brook Co. and worked with Olm-
sted on a development plan.

Sudbrook Park opened in 1890
with nine "cottages," ranging from
a six-room house for \$3,000 to a 12-
room house for \$8,000.

The Sudbrook Hotel, with its
spacious porch, pool and tennis
courts, was the social hub of the
neighborhood until it burned
down in 1926.

The Sudbrook Co. developed 20
percent of the community before
it went out of business in 1910,
hampered by slow sales and the
absence of electric trolley lines in-
to Baltimore.

Construction picked up during
World War II, and hundreds of
neo-Colonial style homes were
built on Sudbrook Park's smaller
lots.

The suburb built out around
1954.

Since then, the neighborhood
has mobilized twice to fight pro-
posed transportation projects
that residents said would harm
Sudbrook Park's open spaces.

In the 1980s, residents fought
plans to build a six-lane highway
through Sudbrook Park.

The state dropped the plan af-
ter an 80-acre portion of the neigh-
borhood was designated as a na-
tional historic site in 1978.

In the late 1970s and early
1980s, residents fought the pro-
posed alignment for the Mass
Transit Administration's Metro
line.

The MTA agreed to a compro-
mise, building a cut-and-cover
tunnel that left the entrance area
of the Olmsted plan intact and
clearing fewer trees.

In 1993 and 1995, parts of Sud-
brook Park were added to the Bal-
timore County Landmarks Preser-
vation Commission's list of
historic sites.

Any construction in the neigh-
borhood would require the com-
mission's approval.

"That it's a historical district is
a big contributor to the neigh-
borhood's ambience," said Irma
Frank, co-president of the neigh-
borhood association and a resi-
dent since 1964.

"We're very proud of our com-
munity because it's a rarity."

"Olmsted's Sudbrook," the
exhibit funded by the Maryland
Humanities Council, will run
Oct. 18 to Nov. 17 at the
Maryland Historical Society. It
will include photographs of
Frederick Law Olmsted Sr. and
the community's first residents,
copies of Olmsted's drawings,
and town records from the turn
of the century.

The symposium is planned for
2 p.m. to 4:30 p.m. Nov. 10, also at
the historical society. Edward
Orsen, an American studies
professor at the University of
Maryland-Baltimore County, will
moderate the panel, which will
include Olmsted scholar Charles
Beveridge. Admission to the
symposium is free.

Yet another way to learn
about Sudbrook Park is a
walking tour Oct. 20, sponsored
by the neighborhood association
and the Baltimore County
Historical Trust. The tour costs
\$5 for members and \$12 for
nonmembers.

Information on historical
society events may be obtained
by calling 885-3750, and for those
events and the walking tour,
832-1812.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 29, 1996

Mr. Jake Rubinstein
902 Windsor Road
Baltimore, MD 21208

RE: Item No.: 45
Case No.: 97-52-A
Petitioner: Jake Rubinstein

Dear Mr. Rubinstein:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 1, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)



Reference #

Date Paid: _____

TYPE OF ZONING/ MAXIMUM # DEVICES:

ZONING APPROVAL:

DATE:

(* Serial numbers must be included; either the manufacturer's # or an owner assigned #.)
***** BELOW LINE IS FOR OFFICE USE ONLY *****

ISSUANCE OF THIS LICENSE DOES NOT FREE THE LICENSEE FROM COMPLYING WITH THE GAMBLING LAWS AND ANY OTHER LAWS AND REGULATIONS

[illegible]

Signature of Applicant	Applicant's Title	Telephone Number
------------------------	-------------------	------------------

NAME OF APPLICANT (please type or print)

OWNER OF MACHINES, ADDRESS

ZIP CODE

OWNER OF MACHINES (please type or print)

(Where devices will be operated)

NAME OF BUSINESS OWNER OR OPERATOR (please type or print)

BUSINESS LOCATION

(Where devices will be operated)

PHONE

MAKE MONEY ORDER OR CHECK PAYABLE TO "BALTIMORE COUNTY, MARYLAND".

APPLICATION DATE

887-3616

LICENSE YEAR

TOWSON, MARYLAND 21204

COUNTY OFFICE BUILDING

DEPARTMENT OF PERMITS & LICENSES

BALTIMORE COUNTY, MARYLAND

COIN OPERATED AMUSEMENT DEVICE APPLICATION

FREE: \$150.00
each machine
per year.



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Hearing Date
9/6/96

TO: Arnold Jablon, Director, PDM

DATE: September 3, 1996

FROM: Arnold F. "Pat" Keller, III, Director, OP

SUBJECT: 902 Windsor Road

Amended Comment

INFORMATION:

Item Number: 45

Petitioner: Jake Rubinstein

Property Size: _____

Zoning: DR 5.5

Requested Action: _____

Hearing Date: ____/____/____

SUMMARY OF RECOMMENDATIONS:

A closer inspection of the 200' scale zoning map revealed that the subject property is located just outside the Sudbrook National Register Historic District. In an effort to preserve the historic character of the adjacent district, the Office of Planning recommends denial of the requested variance.

Prepared by: Jeffrey M. Long

Division Chief: Gary L. Kerns

AFK/JL/lw

ITEM45/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, PDM

DATE: August 22, 1996

FROM: Arnold F. "Pat" Keller, III, Director, OP

SUBJECT: 902 Windsor Road

INFORMATION:

Item Number: 45

Petitioner: Jake Rubinstein

Property Size: _____

Zoning: DR 5.5

Requested Action: _____

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

An inspection of the above referenced property revealed that it is located within a National Register Historic District. In an effort to preserve the historic character of this district, the Office of Planning recommends denial of the requested variance.

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Kerns

AFK/JL/lw

ITEM45/PZONE/ZAC1

RECEIVED
AUG 29 1996

Baltimore County Government
Fire Department



700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410)887-4880

DATE: 08/14/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF AUG. 12, 1996.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 43, 45, 46, 47, 49, 50, 51, 52,
53 AND 54.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Roz

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

DATE: Aug 13, 1996

SUBJECT: Zoning Advisory Committee
Meeting Date: Aug 12, 96

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

43

52

44

53

45

54

47

48

49

50

51

RBS:sp

BRUCE2/DEPRM/TXTSBP

To Zoning

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: August 16, 1996

FROM: *[Signature]* Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for August 19, 1996
Item Nos. 043, 045, 046, 047, 050,
051, and 053

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

Baltimore County Government
Department of Community Development



One Investment Place Suite 800
Towson, MD 21204

887-3317
Fax 887-5696

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: August 1, 1996

TO: Gwen Stevens
Zoning Review

FROM: Jim Thompson
Code Inspections & Enforcement

RE: Item No. 45
902 Windsor Road
Petitioner-Rubinstein
3rd Election District

Please be advised that when the variance petition is scheduled for a public hearing the following parties must be notified:

1. Councilman Kevin Kamenetz
2. Mr. Leonard Frank
612 Cliveden Road
Baltimore, Maryland 21209
3. Mrs. Earl D. Collins
722 Howard Avenue
Baltimore, Maryland 21208
4. Mr. Richard Ottenheimer
705 Carysbrook Road
Baltimore, Maryland 21208

At present, no active code enforcement violation case exist for this property.

JHT/hek

c: Councilman Kevin Kamenetz
Mr. Leonard Frank
Mrs. Earl D. Collins
Mr. Richard Ottenheimer

MICROFILMED

BALTIMORE COUNTY MINOR SUBDIVISION Project No. _____	
DEVELOPMENT REGULATIONS <input type="checkbox"/> Exempt from Division 2 <input type="checkbox"/> Parhandle, exempt from Sections 26-202 & 26-206	
ZADM CERTIFICATION <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	
By: _____ Date: _____	
APPROVED, DEPRM By: _____ Date: _____	

NEW CERTIFICATION STAMP

PETITION PROBLEMS

#43 --- JRA

1. Petition form does not have section number or what they are requesting.
2. Petition form states zoning is "residential".

#45 --- MJK

1. Petition was not given copy of receipt - still in folder.
2. No telephone number for legal owner

#46 --- MJK

1. No telephone number for legal owner.

#48 --- JLL

1. Need authorization for attorney to sign for legal owner.

#49 --- MJK

1. No telephone number for legal owner.

#52 --- MJK

1. Receipt not given to petition - still in folder.
2. No name, address, etc. for legal owner.

RECORDED

August 7, 1996

HYD. DIA. FITTING PIPE FTNG'S TOTAL
 REF "C" or
 POINT Qd Pt Pv
 ***** NOTES *****

409	24.85	1.049	1T	5.00	0.67	19.69	19.69	K = 5.6	9.22
410B	158.84					23.28		K =	32.922
410T	133.99	2.067	1T	10.00	1.25	20.79	20.79		15.19
	158.84	0.2213		0.00	11.25	2.49	0.00	Vel =	15.19
411	20.38	1.049		0.00	10.33	13.25	13.25	K = 5.6	7.57
	20.38	0.1345		0.00	10.33	1.39	0.00	Vel =	7.57
412	21.43	1.380		0.00	10.33	14.64	14.64	K = 5.6	8.97
	41.81	0.1335		0.00	10.33	1.38	0.00	Vel =	8.97
413	22.41	1.380	1T	6.00	9.67	16.02	16.02	K = 5.6	13.78
	64.22	0.2961		0.00	15.67	4.64	0.00	Vel =	13.78
415T	64.22					20.66		K =	14.127
414	24.77	1.049	1T	5.00	0.67	19.57	19.57	K = 5.6	9.20
	24.77	0.1922		0.00	5.00	1.09	0.00	Vel =	9.20
415T	64.23	1.610	1T	8.00	1.25	20.66	20.66		14.03
	89.00	0.2562		0.00	9.25	2.37	0.00	Vel =	14.03
415B	0.00	2.635		0.00	10.67	23.03	23.03		5.24
	89.00	0.0234		0.00	10.67	0.00	0.00	Vel =	5.24
410B	158.84	2.635	1T	12.00	1.83	23.28	23.28		14.58
	247.84	0.1540		0.00	13.83	2.13	0.00	Vel =	14.58
421	247.84					25.41		K =	49.164

UNITS - DIAMETER (INCH) LENGTH (FOOT) FLOW (GPM) PRESSURE (PSI)



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 24, 1996

Mr. Leonard Frank
612 Clivedon Road
Baltimore, MD 21208

RE: Petition for Zoning
Variance
W/S Windsor Rd., 75' N of
the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District
3rd Councilmanic District
Jake Rubinstein -
Petitioner
Case No. 97-52-A

Dear Mr. Frank:

Please be advised that an appeal of the above-referenced case was filed in this office on October 16, 1996 by Lee R. Jacobson, Esquire on behalf of Jake Rubinstein. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over a horizontal line.

ARNOLD JABLON
Director

AJ:rye

c: Mr. Jeffrey B. Smith
Ms. Melanie Anson
Mr. Richard L. Ottenheimer
People's Counsel

10/26/96

RECEIVED



APPEAL

Petition for Zoning Variance
W/S Windsor Road, 75' N of the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District - 3rd Councilmanic District
Jake Rubinstein - Petitioner
Case No. 97-52-A

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Protestants Sign-In Sheet

Petitioners' Exhibit: 1 - Plat to Accompany Petition for Zoning
Variance

Protestants' Exhibits: 1 - Display with 24 Photographs
2 - Sudbrook Club Board of Directors Meeting
Letter dated August 26, 1981
3 - Minutes of the Sudbrook Club Meeting dated
December 15, 1992
4 - Sudbrook Club Meeting Letter dated July 20,
1993
5 - Sudbrook Club Meeting Letter dated December
15, 1993
6 - Sudbrook Club Meeting Letter dated March
22, 1994
7 - Letter from Officer Paul Ciepiela,
Baltimore County Police to Richard L.
Ottenheimer

Petition of Support Signed by 23 People

28 Letters of Opposition

Deputy Zoning Commissioner's Order dated September 17, 1996 (Denied)

Notice of Appeal received on October 16, 1996 from Lee R. Jacobson,
Esquire on behalf of Jake Rubinstein

c: Mr. Jeffrey B. Smith, 607 Sudbrook Road, Baltimore, MD 21208
Ms. Melanie Anson, 1007 Windsor Road, Baltimore, MD 21208
Mr. Leonard Frank, 612 Clivedon Road, Baltimore, MD 21208
Mr. Richard L. Ottenheimer, Carysbrook Road, Baltimore, MD 21208
Mr. Jake Rubinstein, 902 Windsor Road, Baltimore, MD 21202
Lee R. Jacobson, Esquire, Jacobson & Myerberg, P.A., Suite 320,
Nottingham Centre, 502 Washington Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

Melanie Anson
486-6324
fax #

1007 Windsor Rd
Baltimore MD 21208

phone 486-6814

APPEAL

Petition for Zoning Variance
W/S Windsor Road, 75' N of the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District - 3rd Councilmanic District
Jake Rubinstein - Petitioner
Case No. 97-52-A

Petition for Zoning Variance

Description of Property

- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Entry of Appearance of People's Counsel
- ✓ Zoning Advisory Committee Comments
- ✓ Protestants Sign-In Sheet

Petitioners' Exhibit: ✓ 1 - Plat to Accompany Petition for Zoning Variance

Protestants' Exhibits: ✓ 1 - Display with 24 Photographs (LARGE-IN CBA Cueset)
✓ 2 - Sudbrook Club Board of Directors Meeting Letter dated August 26, 1981
✓ 3 - Minutes of the Sudbrook Club Meeting dated December 15, 1992
✓ 4 - Sudbrook Club Meeting Letter dated July 20, 1993
✓ 5 - Sudbrook Club Meeting Letter dated December 15, 1993
✓ 6 - Sudbrook Club Meeting Letter dated March 22, 1994
✓ 7 - Letter from Officer Paul Ciepiela, Baltimore County Police to Richard L. Ottenheimer

- ✓ Petition of Support Signed by 23 People
- ✓ 28 Letters of Opposition
- ✓ Deputy Zoning Commissioner's Order dated September 17, 1996 (Denied)
- ✓ Notice of Appeal received on October 16, 1996 from Lee R. Jacobson, Esquire on behalf of Jake Rubinstein

MICROFILMED

✓ E

c: Mr. Jeffrey B. Smith, 607 Sudbrook Road, Baltimore, MD 21208
Ms. Melanie Anson, 1007 Windsor Road, Baltimore, MD 21208
Mr. Leonard Frank, 612 Clivedon Road, Baltimore, MD 21208
Mr. Richard L. Ottenheimer, Carysbrook Road, Baltimore, MD 21208
* Mr. Jake Rubinstein, 902 Windsor Road, Baltimore, MD 21208 21208
* Lee R. Jacobson, Esquire, Jacobson & Myerberg, P.A., Suite 320, Nottingham Centre, 502 Washington Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

J. Carroll Holzer, Esquire
HOLZER AND LEE
305 Washington Ave., Suite 502
Towson, MD 21204

-entered appearance on behalf of
Sudbrook Park, Inc. and individuals Jeffrey B. Smith, Len Frank, Richard Offenheimer, and Melanie Anson

97-52-A-0055



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 25, 1997

Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
902 Windsor Road, W/S Windsor, 75' N
of c/l Carysbrook Road, 2nd Election
District, 3rd Councilmanic
JAKE RUBINSTEIN, Petitioner
Case No.: 97-52-A
CBA Hearing Date: 3/26/97

Dear Chairman Schuetz:

This matter is scheduled for a hearing on Wednesday, March 26, 1997. The Petitioner seeks a variance from BCZR § 431 to park a commercial vehicle in a residential zone.

Our office has reviewed this case and is interested in this matter. We participated in three (3) cases before the CBA involving BCZR § 431 (In the Matter of Reinsfelder, Case No. 94-176-A; In the Matter of Malloy, Case No. 94-76-A; and In the Matter of Pickle, Case No. 94-374-A). In those cases, the CBA, correctly we believe, denied Petitioners' requests to park a commercial vehicle in a front yard driveway or parking pad. The CBA ruled that convenience and financial benefit are not considerations. The Reinsfelder case was appealed and the Circuit Court affirmed.

In the case at hand, it appears the citizens opposing the Petition are represented by counsel. Two of the Protestants are attorneys who participated in the Zoning Commissioner's hearing. For these reasons, our office will not participate in the hearing. We trust the CBA will apply the variance law under § 307 and Cromwell v. Ward.

MAILED

Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
March 25, 1997
Page Two

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/caf

cc: Lee R. Jacobson, Esq., 502 Washington Avenue, Suite 320,
Towson, MD 21204, attorney for Petitioner
(VIA FACSIMILE - (410) 828-7012)

J. Carroll Holzer, Esq., Holzer and Lee, 305 Washington
Avenue, Suite 502, Towson, MD 21204, attorney for Protestants
(VIA FACSIMILE - (410) 825-4923)

CBA.LTR/PZONE/TXTCAF

RECEIVED

Case No. 97-52-A

VAR -To permit commercial vehicle of 15,000 lbs.
parked in front yard.

9/17/96 -Deputy Zoning Commissioner's Order in
which Petition for Variance was DENIED.

12/13/96 -Notice of Assignment for hearing scheduled for Wednesday,
March 26, 1997 at 10:00 a.m. sent to following:

Counsel for Appellant /Petitioner: Lee R. Jacobson, Esquire
Appellant /Petitioner : Jake Rubinstein
Protestants : Jeffrey B. Smith
Melanie Anson
Leonard Frank
Richard L. Ottenheimer

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt

Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

3/26/97 -Hearing concluded before Board. At conclusion of Petitioner's case
in chief, Mr. Holzer (Counsel for Protestants) moved for Dismissal;
granted by CBA; order to be issued indicating granting of motion and
denial of variance. (C.W.M.)

FILED

quarterly reports to Bar Counsel in the form directed by Bar Counsel.

4. Respondent is to pay costs in the amount of \$605.50, for which judgment in favor of the Attorney Grievance Commission of Maryland is entered.

5. Respondent is to file with Bar Counsel the required affidavit under Maryland Rule BV13 a2.



99 Md.App. 502

John C. NORTH, II, et al.

v.

ST. MARY'S COUNTY et al.

No. 982, Sept. Term, 1993.

Court of Special Appeals of Maryland.

March 2, 1994.

Reconsideration Denied April 26, 1994.

Property owner sought variance to allow him to construct gazebo that was prohibited under county critical area program for wetlands and tidal areas. The county board of appeals granted variance, and chairman of critical area commission appealed. The Circuit Court for St. Mary's County, C. Clark Raley, J., affirmed, and chairman appealed. The Court of Special Appeals, Cathell, J., held that: (1) chairman had standing to appeal, and right to appeal was unrestricted, and (2) evidence did not satisfy either "unique" aspect of variance provision or that unwarranted hardship would result if variance was denied.

Reversed.

1. Zoning and Planning ⇐571

Chairman of critical area commission had standing to appeal issuance of variance by county board of appeals, provided that authority to do so was not withdrawn by

commissioners, and such right to appeal was unrestricted and encompassed nonenvironmental features of county's critical area program for wetlands and tidal areas. Code, Natural Resources, § 8-1812(a).

2. Zoning and Planning ⇐481

"Variance," if granted, permits use that is prohibited and presumed to be in conflict with ordinance.

See publication Words and Phrases for other judicial constructions and definitions.

3. Zoning and Planning ⇐536

Applicant for variance bears burden of overcoming presumption that proposed use is unsuitable; to do so applicant must fully satisfy dictates of statute authorizing variance.

4. Zoning and Planning ⇐503

Pure "area variance," as opposed to use variance, is permitted if strict compliance with regulations would result in practical difficulties or unreasonable hardship.

See publication Words and Phrases for other judicial constructions and definitions.

5. Zoning and Planning ⇐489

Under provision of zoning code dealing with variances for uses otherwise not authorized under county's critical area program for tidal and wetland areas, applicant for variance had to show unwarranted hardship, special features of site, special conditions and circumstances, and deprivation of rights enjoyed by others in neighborhood if application was not granted; additionally, applicant had to show that, if variance was granted, he would not receive special privilege, that variance request did not result from action of landowner, that request did not result from any condition relating to permitted or nonconforming buildings or uses on property, and that variance, if granted, would not have adverse environmental impact.

6. Zoning and Planning ⇐496

In zoning context, "unique" aspect of variance requirement does not refer to extent of improvements upon property, or upon neighboring property; rather, subject property must have inherent characteristic not

NOT FILMED

shared by other properties in area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or nonaccess to navigable waters, practical restrictions imposed by abutting properties, or other similar restrictions or, in respect to structures, such characteristics as unusual architectural aspects and bearing or party walls.

See publication Words and Phrases for other judicial constructions and definitions.

7. Zoning and Planning ¶503

Evidence did not satisfy "unique" aspect of variance provision so as to justify variance to allow construction of gazebo that was otherwise prohibited under county's critical area program for tidal areas and wetlands; fact that neighboring properties had structures according view sought by applicant did not establish uniqueness as to applicant's property.

8. Zoning and Planning ¶503

Evidence did not establish that unwarranted hardship would result if property owner was not granted variance to construct gazebo that was otherwise prohibited under county's critical area program for wetlands and tidal areas; extensive reasonable use of property was already being made inasmuch as owner had already developed ranch home with extensive decking, improved walkway and pier, from which owner was afforded view he purportedly sought by constructing gazebo.

9. Municipal Corporations ¶120

Administrative agencies are bound to apply ordinances they administer.

George E.H. Gay, Asst. Atty. Gen., argued (J. Joseph Curran, Jr., Atty. Gen. and Thomas A. Deming, Asst. Atty. Gen., on the brief), Annapolis, for appellants.

Joseph R. Densford, Leonardtown, argued for appellee, St. Mary's County.

John T. Enoch, argued (John Amato, IV and Goodman, Meagher & Enoch, on the brief), Baltimore, for appellee, John T. Enoch.

Argued before BLOOM, CATHELL and HARRELL, JJ.

CATHELL, Judge.

Appellant, John C. North, II, Chairman of the Chesapeake Bay Critical Area Commission (Chairman), appeals from a decision of the Circuit Court for St. Mary's County affirming a decision of the St. Mary's County Board of Appeals, granting a variance from the provisions of the St. Mary's County Critical Area Program which prohibits the use requested, except as a variance, in the critical area buffer zone. Mr. John T. Enoch and the Board of County Commissioners of St. Mary's County are the appellees.

Appellant poses two questions:

1. Was there substantial evidence before the Board to support its decision to grant the variance?
2. Is the Board's decision supported by lawfully sufficient findings of fact and conclusions of law?

In addressing this case, it is important to recognize what it is and what it is not. Though appellant extensively refers to the public policy behind Maryland's Chesapeake Bay Critical Area legislation, this is *not* a case involving any interpretation or review of that legislation. The time for review and challenges to that legislation were: (1) when it was adopted, (2) subsequently when St. Mary's County adopted its program pursuant to the requirements of the state legislation, or (3) by a direct constitutional challenge to the state and county legislation when the case was heard below. No such challenge was made below in the case at bar. This case is, thus, a simple zoning variance case.

Facts

Mr. Enoch, appellee, owns a 4.3 acre parcel of land adjacent to Cuckold Creek in St. Mary's County. The parcel is within the County's critical area, i.e., within 1,000 feet beyond the landward boundaries of wetlands and the heads of tides. It is partially within the County's critical area buffer.

Part of the parcel is already developed with a ranch home and outbuildings. The structure at issue here is a proposed gazebo

to be built within twenty-five feet¹ from the mean high water mark of the creek. Mr. Enoch's purpose in building the gazebo, it is alleged, is to have a place to contemplate, read and enjoy the view.

The existing ranch house backs up to the waters of the creek. Attached to the rear of the house is a network of exterior decking extending twenty to thirty feet out over the steep shore, which extends twenty feet or more to the waters of the creek. The water view from the deck is unobstructed. A walkway leads from the decks down the creek bank to a pier that extends out into the creek.

The gazebo is not a permitted use under the County's program. Mr. Enoch, therefore, applied for a variance from the provisions of the code to enable him to construct the gazebo. The County's Department of Planning and Zoning informed the Board of Appeals that Mr. Enoch did not meet the requirements entitling him to a variance because there were no special circumstances existing which established that Mr. Enoch had an unwarranted hardship.

Mr. Enoch admitted at the hearing before the Board of Appeals that:

I think that if we're not permitted to use this point for a scenic view, that it would be a deprivation of the rights of the property owner, *maybe not a great deprivation*....

... The whole purpose ... is ... to be able to walk out ... and observe that view.... I have a little bench ..., a couple chairs and a table where I sit out there [the point] and read.... [T]his gazebo ... would permit a better access to this. [Emphasis added.]

Standing

[1] Before addressing the questions raised by appellant, it is necessary to resolve an issue raised by appellee Enoch. He asserts that:

The Commission has no standing to assert non-environmental features of the St.

1. The record at one point refers to its location as being thirty-five feet from the creek. The origi-

Mary's County program, such as "unwarranted hardship."

He argues:

Enoch respectfully asserts that the standing conferred upon the Chairman under § 8-1812 of the Natural Resources Article must be interpreted as limited to the State's interest in overseeing the resource protection program for the Bay and its tributaries; i.e. the State only has standing on variance approval issues to the extent they are based on adverse impact to water quality, wildlife or natural habitat of the adjacent shoreline. The Commission has no more standing to argue "unwarranted hardship," in the face of an undisputed finding that this gazebo will have no adverse environmental impact, than it would to argue that the variance must be denied because Enoch did not pay the County's application fee.

....

In this case the Commission concedes that if the Planting Agreement is implemented at the time of the gazebo construction, the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.... Wholly apart from environmental concerns, the State now sees itself as the dictator of what is a luxury and what is a hardship with respect to the use of Enoch's property. Gazebos, says the Commission, are luxuries that the State can deny property owners even in the absence of adverse environmental consequences. Enoch disagrees. The Court should dismiss the appeal as it contains no justifiable issue that the Commission, or its Chairman, can lawfully assert.

We found it unnecessary to address a similar issue in *The Wharf at Handy's Point, Inc. v. Department of Natural Resources*, 92 Md. App. 659, 610 A.2d 314 (1992), where we based our decision on a failure to exhaust administrative remedies. It is now necessary for this issue of standing to be resolved.

As we perceive the pertinent statutory provisions, the only limit on the Chairman's

nal application called for the gazebo to be built within fifteen feet of the creek.

right, or standing, to appeal the issuance of variances is that provision found in Md.Nat. Res.Code Ann. § 8-1812(a) (1990 Repl.Vol.) where it provides that the Chairman must withdraw [the appeal] "if, within 35 days ... at least 13 members [of the Commission] indicate disapproval. . . ." There is no evidence that the Chairman's authority was so withdrawn.

The statutes addressing his right to appeal state:

After the Commission has approved ... a program, the chairman ... has standing and the right and authority to ... appeal ... concerning a project approval in the Chesapeake Bay Critical Area.

Id.

The chairman may appeal an action or decision even if the chairman was not a party to or is not specifically aggrieved by the action or decision.

Id. at section 8-1812(c) (emphasis added).

Additionally, COMAR 27.01.11C, the State regulations authorizing local programs to contain variance provisions, states:

Appeals ... shall be taken in accordance with all applicable laws and procedures of each local jurisdiction for variances. . . . [T]he Chairman may appeal an action or decision even if the Chairman was not a party to or is not specifically aggrieved by the action or decision. [Emphasis added].

It is clear to us that the Chairman's (thus, the Commission's) right to appeal a decision of the Board is unrestricted. We, therefore, reject Enoch's claim that the Commission has no standing to assert non-environmental features of the St. Mary's County's ordinance enacted pursuant to the dictates of the Natural Resources Article.

We are concerned that the Commission initially offered no evidence, nor did anyone, of any environmental damage that might occur if this gazebo were to be built.² As we perceive the general thrust of the state and local legislation, the Commission was included as an unlimited litigant in order to permit it to fully guard the environmental interests

it was created to protect. The local ordinance, and the state legislation, authorize the Chairman to be a full litigant. We are thus constrained to permit the Chairman to litigate all issues. As we noted in *Green v. Bair*, 77 Md.App. 144, 152, 549 A.2d 762 (1988), cert. denied, 315 Md. 307, 554 A.2d 393 (1989), quoting the trial court:

It is not for the court to decide the wisdom, *vel non*, of the zoning code, as adopted by the Mayor and common council [of St. Mary's County], but rather to enforce it as it is written.

1.

Was there substantial evidence before the Board to support its decision to grant a variance?

The Law

We said in *Enviro-Gro Technologies v. Bockelmann*, 88 Md.App. 323, 335, 594 A.2d 1190, cert. denied, 325 Md. 94, 599 A.2d 447 (1991):

We, in discussing the law relative to rezoning, have stated that the courts may not substitute their judgment for that of the legislative agency, *if the issue is rendered fairly debatable*. The basic reason for the "fairly debatable" rule is that zoning matters are, first of all, legislative functions and, absent arbitrary and capricious actions, are presumptively correct if based upon substantial evidence; even if substantial evidence to the contrary exists. [Emphasis added, citations omitted.]

See also *Luxmanor Citizen's Assoc., Inc. v. Burkart*, 266 Md. 631, 647, 296 A.2d 403 (1972); *Chesapeake Ranch Club, Inc. v. Fulcher*, 48 Md.App. 223, 227-28, 426 A.2d 428 (1981). We also stated in *Neuman v. Mayor & City Council*, 23 Md.App. 13, 14, 325 A.2d 146 (1974), that "where the action of the Board is not supported by substantial evidence the board's decision cannot be said to be 'fairly debatable.' Under those circumstances the board's finding falls into the category of being arbitrary, capricious and a denial of due process of law." See also *Red*

2. Had the applicant not asked for a continuance of the first hearing before the Board, there would have been nothing in the record from the Com-

mission. The letter from the Commission was received between the first and second hearing. It did contain environmental objections.

Roof Inns, Inc. v. People's Counsel, 96 Md. App. 219, 224, 624 A.2d 1281 (1993); *County Comm'rs v. Zent*, 86 Md.App. 745, 752-53, 587 A.2d 1205 (1991).

Discussion

[2, 3] We first point out that in zoning law a variance, if granted (unlike a special exception),³ permits a use which is prohibited and presumed to be in conflict with the ordinance. An applicant for a variance bears the burden of overcoming the presumption that the proposed use is unsuitable. That is done, if at all, by satisfying fully the dictates of the statute authorizing the variance.

Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md.App. 28, 322 A.2d 220 (1974), also involved a set back restriction, i.e., the distance between buildings. In *Anderson*, there was testimony that the property in question was unique because it was L-shaped, with the southern portion being considerably narrower than the north portion. It was contended that "there is no other way for us to locate that building." *Id.* at 33, 322 A.2d 220. The applicant noted that unless the variance was granted "our people wouldn't even have any view of the water." *Id.* We noted that the location of the building for which the variance was sought "was chosen to maximize the residents' view of the water..." *Id.*

Experts testifying for the applicant noted that the property had "intriguing natural

3. Baltimore City's zoning code makes no distinction between special exceptions and variances. Its code treats what it calls special exceptions as if they were variances. We know of no other zoning code that fails to make the distinction between special exceptions and variances. The large number of cases arising out of Baltimore City have led to numerous cases where the distinction between the two entities has become somewhat muddled in the case law. This, we would suggest, results not from appellate rejection of the distinction but from the unique provisions of the Baltimore City statute. For this reason, it is generally inexact to rely on Baltimore City cases when a special exception is at issue in another jurisdiction, but would be appropriate when a variance is at issue.

As the Court of Appeals noted in *Dampman v. Mayor and City Council*, 231 Md. 280, 285, 189 A.2d 631 (1963):

Ordinarily there is a distinction between a variance and an exception.... An exception

beauty' with distinct contours and vegetation which should not be disturbed.... [T]he buildings are located ... to enhance the view from the bay toward the project." *Id.* at 34, 322 A.2d 220. The circuit court, in affirming the grant of the variances, noted that the Board had taken the position that special topographic features existed, that existing buildings on the property and the property's relation to the Chesapeake Bay entitled the applicants to consideration.

[4] We discussed Chesapeake Beach's variance provisions noting that, unlike pure area (as opposed to use) variances, which are permitted if strict compliance with the regulations would result in practical difficulties or unreasonable hardship,⁴ Chesapeake Beach's ordinance provided that area variances could only be granted if strict application of the regulations "would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land..." *Id.* at 40, 322 A.2d 220. We then opined:

Not only does it [the variance provision] express the criteria of practical difficulty and unnecessary hardship in the conjunctive, but it also independently requires that no area variance be granted unless it is shown that strict application of the regulations will deprive the applicant of the reasonable use of his land and that the grant of the variance is necessary for the reasonable use of the land. It defines the hardship which must be shown as the equiva-

is usually granted where a specific use is permitted by the legislative body in a given area if the zoning plan is conformed to and there is no adverse effect on the neighborhood. There is usually no necessity for showing undue hardship. On the other hand, variances are usually given only on the showing of undue hardship. In Baltimore City there appears to be no distinction between the two terms.... [Citations omitted.]

See also *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 288-89, 96 A.2d 261 (1953).

4. A similar provision exists in the Baltimore County Ordinance that we construed in *Red Roof Inns, Inc. v. People's Council for Baltimore County*, 96 Md.App. 219, 224, 624 A.2d 1281 (1993), where we noted that when the language states practical difficulties or unreasonable hardship "satisfaction of either of the conditions may warrant a variance."

lent of a constitutional taking, and utilizes the same criteria employed by the Court of Appeals for establishing undue hardship.... [A]n area variance can be granted only if there is proof that the strict application... would result in an unnecessary hardship which deprives the owner of the reasonable use of his land.

Id. at 41, 322 A.2d 220. See also *Green*, 77 Md.App. at 152, 549 A.2d 762.

[5] The St. Mary's County variance provision at issue here, likewise, provides:

[W]hen, owing to special features of the site or circumstances, the literal enforcement... result[s] in *unwarranted hardship*....

In granting variances the county must:

1. Find that special conditions or circumstances exist that are peculiar to the land... and that a literal enforcement... would result in *unwarranted hardship*;

2. That a literal interpretation... will deprive the land owner of rights commonly enjoyed by other properties in similar areas...

3. That the granting of a variance will not confer upon a land owner any special privilege...

4. That the variance request is not... the result of actions by the land owner, nor that the request arises from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property;

5. That the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.... [Emphasis added.]

The ordinance requires an applicant to meet all of the requirements. Thus, though it may be argued that this is an area variance and that under most zoning codes the applicant's burden would be limited to showing practical difficulty, the statute at issue here is mandatory and requires not an either/or showing but the satisfying of *all* of the requirements, i.e., the showing of an "unwarranted hardship," and special features of the site and

special conditions and circumstances, and deprivation of rights enjoyed by others in the neighborhood if the application is not granted.

Additionally, if *all* of the above is established by substantial evidence, an applicant must additionally show, also by substantial evidence, that if the variance is granted the applicant will not receive a special privilege and that the variance request does not result from the action of the landowner and that the request does not result from any condition relating to permitted or non-conforming buildings or uses on neighboring property and that the variance, if granted, will not have adverse environmental impact. The St. Mary's County ordinance, especially in light of the Commission's approval function, is as strict as can be imagined. We have seen none tougher.

In essence, the developmental/environmental battle must, of necessity, be fought by the developmental or County interests during the County program's adoption. If the battle was fought in St. Mary's County, it was lost or won then. Once an ordinance such as that in the case *sub judice* becomes effective, an applicant's burden cannot generally be met by references to Thoreau's hut on Walden Pond.⁵ Once these types of variance provisions are enacted, the result is generally that any project that does not cause damage to the environment will also be of such an inconsequential nature that it will not constitute an unwarranted hardship for it to be denied. Appellee Enoch, in his letter of application for a variance dated July 10, 1991, gave part of his reason for the request: "[T]his point would be an ideal location to construct a gazebo for the purpose of utilizing the beautiful view that is found on that point." He then made a general claim that "[a] strict construction of the regulation would not merely result in an inconvenience but actually create a serious and unnecessary hardship" because he had "hoped to develop [] the point."

He asserts that the land conditions are unique because "only a small portion of [the

5. The trial judge noted that under the program imposed upon St. Mary's County by the Critical

Area Commission, Thoreau's hut could not have been built. He was correct.

land] has buildings on it." He then claims that this situation is generally different in respect to other properties within the same zoning classification. The remainder of his application generally parrots the language of the statute in addressing the remaining requirements.

[6] In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

An example of uniqueness is found in the use variance case of *Frankel v. Mayor and City Council*, 223 Md. 97, 104, 162 A.2d 447 (1960), where the Court noted: "[H]e met the burden: the irregularity of the ... lot ... that it was located on a corner of an arterial highway and another street, that it is bounded on two sides ... by parking lots and public ... institutions, that immediately to its south are the row houses...."

In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Appeals, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339, 513 A.2d 893 (1986), quoted from the Queen Anne's County ordinance:

Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific ... property ..., or by reason of exceptional topographic conditions or other extraordinary situation or special condition of ... property ... the literal enforcement ... would make it exceptionally difficult ... to comply ... and would cause unwarranted hardship and injustice....

The general thrust of the meaning of special features or uniqueness of property for vari-

ance purposes relates to the type of uniqueness discussed by the Court in *Ad + Soil, Inc.*

[7] The evidence in this case relied upon by appellees is just the opposite. Mr. Enoch proffered that the neighboring properties were similarly situated, including having points of land with views. His argument was basically that his land was unique because he had not already built on the point of land and the other property owners had. In other words, his uniqueness claim was based on the existence of permitted (or probably non-conforming, the record is not clear as to which) structures and uses on adjoining properties. Mr. Enoch did not offer any evidence establishing any zoning uniqueness as to his property, and the basis upon which he attempted to argue uniqueness is expressly forbidden by section 4 of the ordinance. ("That the variance request [does] not ... arise[] from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.")

The evidence presented at the original hearing before the Board included, in part, the following testimony by appellee Enoch:

[I]f we're not permitted to use this point for a scenic view, that it would be a deprivation of the rights of the property owner, maybe not a great deprivation, but it's uniquely there for the purpose of putting up something to observe this beautiful view....

....
... The only place to go for any kind of a view of the water is either straight ahead ... where I have my dock, or over here where we're talking about. I have my dock, I already have a view of the water there and I have a view from the house so-to-speak ... the view from the house is a view of the very end of the cove. The view from up here [the subject site] leads out to the Patuxent River ... you can see four or five hundred yards.... I wouldn't put a gazebo any other place that would be ... satisfactory.

[COMMISSIONER]: Okay, and you want the gazebo ... as a place for retreat, a place to give you the opportunity to contemplate, to read....

MR. ENOCH: Sure....

MR. ENOCH: ... I think every property in that area has their homes built on those little points that stick out.

At this point the evidentiary stage of the initial hearing was concluded. The members of the Board then discussed the case.

MR. FITZGERALD: ... This is one of those solemnly [King Solomon?] decisions ... that speaks ... to the ludicrousness of the ... critical areas thing.... At the same time ... there are conditions ... within the ordinance that we're required to uphold.... I don't feel comfortable denying the applicant outright ... I don't feel comfortable in voting against the ordinance.... *But in spite* of the fact that the applicant hasn't proven, you know, the variance, or the requirement for variance, he still has a strong case.... [Emphasis added.]

That testimony we have recounted comprises all the evidence offered by Mr. Enoch before the Board to meet his burden of satisfying the variance provision's requirements.

Also in evidence before the board was the staff report of the Department of Planning and Zoning of St. Mary's County. The staff report explicitly recommended that the requirement of a showing of special circumstances and unwarranted hardship had not been made and that if the variance was granted it might constitute a special privilege granted to this property in violation of the ordinance.

During the circuit court hearing, the judge initially noted that:

So, it is a case of a gazebo and a fellow who wants to look at the view, is that it? The court then asked the attorney for St. Mary's County to respond to appellant's assertions:

THE COURT: ... [T]his record has to show, in order to get one of these variances, that not to grant it to him would cause him an unwarranted, undue hardship, and the administrative record just doesn't show that.

That is what he is saying.

[THE COUNTY ATTORNEY]: Whether it is an unwarranted hardship or not is not for me to decide. The Board of Appeals ruled that it was. They found facts to—sufficient to conclude that Mr. Enoch would face an unwarranted hardship if he could not build his gazebo.

The *only* reason for building the gazebo, I believe, is to have that view of the water. Without that, there is no reason for a gazebo.

So, I think the whole key is unwarranted hardship.

Mr. Enoch then proffered, in part:

So, there is a desire to use that point for aesthetic purposes to view the water.

And the hardship we are talking about is a reasonable use of the property by an individual.

The applicant, Mr. Enoch, the county, and the trial judge for that matter, when discussing the reasonable use of the property seem to restrict their considerations to just the part of the property where Enoch desires to construct the gazebo. That is incorrect. The property at issue here is the 4+ acre site already developed with a ranchhouse of approximately 1,100 square feet with extensive decking, an improved walkway, and a pier, from which expansive views are present. Thus, the property already is subject to a reasonable use.

[8] The instant case focuses on unwarranted hardship; it is a denial of *reasonable* use that creates an unwarranted hardship. If reasonable use exists, generally an unwarranted hardship would not. In the present case, extensive reasonable use is already being made of the property. Under the appellees' theory, it would be unreasonable and an unwarranted hardship to deny Mr. Enoch anything he wants.

In a case resolved on standing issues, the Court of Appeals nevertheless stated:

To grant a variance the Board must find from the evidence more than that the building ... would be suitable or desirable or could do no harm or would be conve-

nient for or profitable to its owner. The Board must find there was proof of "urgent necessity, hardship peculiar to the particular property, and a burden upon the owner not justified by the public health, safety and welfare."

Kennerly v. Mayor and City Council, 247 Md. 601, 606-07, 233 A.2d 800 (1967). See also *Marino v. Mayor and City Council*, 215 Md. 206, 137 A.2d 198 (1957) ("As a general rule, ... [variances] are granted sparingly, and under exceptional circumstances. To do otherwise would decimate zonal restrictions and eventually destroy all zoning regulations...."); *Carney v. City of Baltimore*, 201 Md. 130, 137, 93 A.2d 74 (1952).

The Court of Appeals in *Park Shopping Center, Inc. v. Lexington Park Theatre Co.*, 216 Md. 271, 276-77, 139 A.2d 843 (1958), in respect to the ordinance there being applied, opined:

[T]he Zoning Ordinance for St. Mary's County ... states that the Board shall have power "[t]o authorize ... such variance ... where, owing to special conditions, the enforcement ... will result in unwarranted hardship and injustice...." It is in language typical of a variance as distinguished from an exception....

... "The criterion for determining unnecessary hardship is whether the ... restriction when applied to the property in the setting of its environment is so unreasonable as to constitute an arbitrary and capricious interference with the basic right of private ownership." [Citations omitted.]

Variances have been rejected under more compelling circumstances than that presented by the evidence in this case. See, e.g., *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 340, 513 A.2d 893 (1986) (ignorance of set back requirements for sewage sludge facility when property purchased was not a hardship); *Burns v. Mayor and City Council*, 251 Md. 554, 558-59, 248 A.2d 103 (1968) (financial crisis generally not hardship, especially when same crisis applies to other property in neighborhood); *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 554, 214 A.2d 810 (1965) (self-inflicted hardship); *Pem Constr. Co. v. Mayor and City Council*, 233 Md. 372, 378, 196 A.2d 879 (1964) (non-feasi-

bility of building residential houses on subject property because of its location near a shopping center and parking lots—"facts ... fall substantially short of ... a taking in a constitutional sense."); *Mayor & City Council v. Polakoff*, 233 Md. 1, 9, 194 A.2d 819 (1963) (earlier variances granted to other properties not grounds for variances); *Carney v. City of Baltimore*, 201 Md. 130, 136-37, 93 A.2d 74 (1952) (side yard set back for convenience, i.e., to accommodate disability of wife of applicant not hardship); *Cleland v. Mayor and City Council*, 198 Md. 440, 445, 84 A.2d 49 (1951) (parking inconvenience for doctors not a hardship); *Gleason v. Keswick Improvement Ass'n, Inc.*, 197 Md. 46, 78 A.2d 164 (1951); *Easter v. Mayor and City Council*, 195 Md. 395, 400, 73 A.2d 491 (1950).

The only evidence presented is that appellee, Enoch, wished to read and contemplate on the point (we presume the purpose of the gazebo was to furnish shade and protection from the rain as a gazebo is not inherently necessary in the process of reading and contemplation). A desire to have a gazebo of approximately 234 square feet in which to contemplate at a particular spot when that gazebo is not permitted at that location is not evidence of an unwarranted hardship. This is especially true when appellant has an additional 178,361 square feet of property in which to contemplate, much of which is outside the buffer or already in place in the creek or near the creek.

Resolution

As we see it, there was no evidence supporting any special features peculiar to the subject site. There was no evidence—as opposed to a statement—of unwarranted hardship. Because the evidence is non-existent on these points, it is immaterial that there may have been some minimal evidence of little or no environmental damage or that the variance, if granted, would not confer a special privilege on the applicant. All of the requirements must be met and proved by substantial evidence. They were not. As we said in *Neuman*:

It is crystal clear that the Board acted not only without "substantial evidence",

but without any evidence, to support its findings, and its decision should have been reversed by the hearing judge.

Neuman, 23 Md.App. at 17, 325 A.2d 146. We hold, therefore, as we did in *Anderson*:

Based on the record before us, we find that the question of whether the strict application of the . . . requirement would result in an unnecessary hardship to the applicant by depriving him of the reasonable use of his land was not fairly debatable. The action of the Board of Appeals in granting the variances was arbitrary and capricious and cannot be sustained. . . . Accordingly, the order of the lower court affirming the grant of the variance[] . . . shall be reversed.

Anderson, 22 Md.App. at 42, 322 A.2d 220 (citations and footnote omitted).

In light of our decision, the other issue raised by appellant need not be addressed except that we note appellant's second issue appears to have merit.

[9] We note in concluding that administrative agencies are bound to apply the ordinances they administer. Lip service to, and defiance of, the County's ordinances because of dislike of the critical area legislation is inappropriate. Dislike for a statute is never sufficient justification to ignore it. Additionally, while we have occasionally commented on the planning staff's functional limitations, the Board here would have been well advised to pay more attention to the recommendations of its professional staff.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEES.



99 Md.App. 521

Anwar MALIK

v.

Joohi MALIK.

No. 598, Sept. Term, 1993.

Court of Special Appeals of Maryland

March 30, 1994.

Mother filed complaint, requesting custody of child and restraining order against father. The Circuit Court for Baltimore County, Christian H. Kahl, J., denied comity to Pakistani custody order, granted temporary custody to mother, and enjoined father from going within 300 feet of child, mother or their residence. Father appealed. The Court of Special Appeals, Murphy, J., held that: (1) circuit court did not have emergency jurisdiction after evidence was presented; (2) Maryland did not have "significant connections" jurisdiction; (3) Maryland had "home state" jurisdiction; but (4) circuit court was required to decline to exercise jurisdiction unless persuaded that Pakistan court did not apply best interest of child standard when it awarded custody to father or arrived at its decision by applying a law so contrary to Maryland public policy as to undermine confidence in outcome of trial.

Remanded.

1. Equity §65(2)

Absent the most extraordinary circumstances, party should not be permitted to obtain relief from Maryland court by acting with unclean hands in violation of another court's order.

2. Parent and Child §2(5)

Circuit court had emergency jurisdiction under Uniform Child Custody Jurisdiction Act (UCCJA) to hear mother's petition for emergency temporary custody and ex parte restraining order pending hearing, based on allegation that father was constantly physically abusive to child in order to coerce her to follow his commands; however, when evidence presented at hearing did not persuade trial judge that child was in imminent dan-

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the court correctly directed Ms. Droney to transfer the home in its 1992 Order; the court's finding of contempt in the 1994 Order, based on Ms. Droney's failure to comply, was not an abuse of discretion.

III.

[13] Ms. Droney contends that even if the court did not err in finding that the term "real estate" encompassed the home, the court lacked the statutory authority to order her to transfer her interest in property, either as part of a divorce decree or in the enforcement thereof. Under Md.Fam.Law Code Ann., § 8-202(a) (1991), the court may determine ownership of disputed property when the court grants an absolute divorce, but the statute expressly denies the court the power to transfer property, other than money, as part of an award. *See also, Kline v. Kline*, 93 Md.App. 696, 703, 614 A.2d 984 (1992). At the same time, the court can merge the terms of a deed, agreement, or settlement made between the parties during the divorce as a part of the divorce decree. Md.Fam.Law Code Ann., § 8-105(a); *Goldberg v. Goldberg*, 290 Md. 204, 210 n. 6, 428 A.2d 469 (1981). Once the terms are so merged, the court has the power to enforce those terms using the contempt power. Md. Fam.Law Code Ann., § 8-105(a); Md.Rule 2-648; *Mendelson v. Mendelson*, 75 Md.App. 486, 497-98, 541 A.2d 1331 (1988).

Ms. Droney relies on the case of *McAlear v. McAlear*, 298 Md. 320, 469 A.2d 1256 (1984) for the proposition that contempt may not be used to enforce a "property disposition award." In *McAlear*, the divorced wife sought to have her ex-husband held in contempt for his failure to pay the monetary award specified in the judgment of absolute divorce. The Court held that, unlike alimony, a monetary award in a divorce case constitutes a "debt," and as the Maryland Constitution, Art. III, § 38 forbids incarceration for the failure to pay a debt, contempt was not an available method of enforcement. *Id.* at 349-52, 469 A.2d 1256.

lacking. *Id.* at 394 n. 3, 105 S.Ct. at 2071 n. 3. *See also, Doering v. State*, 313 Md. 384, 398-99, 545 A.2d 1281 (1988) (interpreting *Carney*, defendant's bus, which had been converted into lodg-

Ms. Droney's reliance on *McAlear* is inapposite. The Court did not consider Fam. Law, § 8-105(a), and we find nothing in *McAlear* that approaches the question of whether a court may use contempt to enforce the lawful terms of its own orders. Given the clear statutory authority to merge the terms of an agreement into a judgment of divorce and to enforce such terms with contempt, the court did not err in seeking to enforce the terms of the Judgment by ordering Ms. Droney to transfer her ownership of the Property to Mr. Droney.

AFFIRMED. COSTS TO BE PAID BY APPELLANT.



102 Md.App. 691

David CROMWELL, et al.

v.

Arthur Thomas WARD, III.

No. 617, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Decided Jan. 4, 1995.

The Circuit Court, Baltimore County, Lawrence Daniels, J., affirmed order of board of appeals granting height variance for accessory building already built by owner. Appeal was taken. The Court of Special Appeals, Cathell, J., held that: (1) no variance was appropriate where property was not shown to be unusual or unique from surrounding properties before variance based on practical difficulty or unreasonable hardship was sought; (2) landowner's self-created hardship arising from construction of accessory building before variance was sought was not grounds for grant; and (3) approval of

ing, was subject to warrantless search as it had all of its tires fully inflated, had all its windows intact, had all its lights in apparently functional condition, and was near a road).

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building permit for accessory building did not support grant of variance sought.

Reversed.

1. Zoning and Planning §461

City was not estopped from refusing to grant variance from height restriction on auxiliary building merely because owner submitted and obtained construction permit, at least where owner's plan's elevation schematics contained neither elevation dimensions nor scale and elevation was not stated; while zoning inspectors might have been able to extrapolate dimensions from other schematics, they were not required to do so in light of owner's affirmative statement in application of compliance with zoning requirements. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

2. Zoning and Planning §496

Under law on variances in Maryland and under Baltimore County's charter and ordinance, property's peculiar characteristics or unusual circumstances relating only and uniquely to that property must exist in conjunction with ordinance's more severe impact on specific property because of property's uniqueness before any consideration will be given to whether requisite practical difficulty or unnecessary hardship exists. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

3. Zoning and Planning §497

Practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

4. Zoning and Planning §496

Mistake of county official cannot be the "practical difficulty" unique to subject property required to authorize grant of variance. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

5. Zoning and Planning §503

Granting of variance from height restrictions on auxiliary building was arbitrary and illegal where subject site was not in any way peculiar, unusual or unique when compared

to other properties in neighborhood and thus was not disproportionately affected by height restriction; self-created hardship arising from owner's failure to disclose height dimensions in applying for permit and construction of building in nonconformity were self-imposed or created hardships that could not support variance. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

Michael Paul Smith (Thomas G. Bodie and Bodie, Nagle, Dolina, Smith & Hobbs, P.A., on the brief) Towson, for appellants.

Newton A. Williams (Nolan, Plumhoff & Williams, Chtd., on the brief) Towson, for appellee.

Argued before WENNER, CATHELL and MURPHY, JJ.

CATHELL, Judge.

Appellant, David Cromwell, appeals from the judgment of the Circuit Court for Baltimore County (Daniels, J., presiding) affirming the order of the Board of Appeals granting a height variance for an accessory building already built by appellee, Arthur Thomas Ward, III. Appellant poses the following questions:

- I. Whether the self-imposed or self-created hardship discussed in the Maryland case law on variances requires an intentional act, such as ignoring or flaunting [sic] the zoning regulations.
- II. Does the record before the Honorable Lawrence Daniels support a finding that had the accessory building been built in accordance with the height regulations of Baltimore County, the accessory building would necessarily require a different pitch from all other buildings on the property?
- III. Can a difference in roof pitches between an accessory building and a home constitute a "practical difficulty or unreasonable hardship" within the meaning of § 307 of the Baltimore County Zoning Regulations?

While those questions are limited, appellant expands in his arguments supporting the questions and argues that

[t]he restrictions of the applicable ordinance, taken in conjunction with the unique circumstances affecting the property, must be the proximate cause of the hardship [Emphasis added.]

and Section 307.1 requires that variances only be granted in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request.... [Emphasis added.]

and

Mr. Ward's property is not unique from the others in the Ruxton area. [Emphasis added.]

Although somewhat indirectly, appellant has pointed out an important aspect of the nature of the variance process, i.e., it is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is—in and of itself—unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or¹ unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists. Further consideration must then be given to the general purposes of the zoning ordinance.

1. Some ordinances use the conjunctive, "and," creating a requirement that both practical difficulty and unreasonable hardship exist. Because hardship is the most severe standard, this means that it is the standard used regardless of whether an area or use variance is sought. Some ordinances use the disjunctive, "or," to separate the two standards. These jurisdictions

What we have recently observed in Baltimore County, and in other jurisdictions as well, and what occurred in the case at bar, is a reversal of the required process. Instead of first determining whether the subject property is unusual or unique, the zoning authorities are first determining whether a practical difficulty or unreasonable hardship exists. That determination is then used to create a unique and unusual situation as to the subject property because surrounding properties do not experience the hardship or difficulty.

In the case *sub judice*, appellee's act of constructing a building of such a height as to produce a roof pitched at the angle he desired caused the roof to extend above the fifteen-foot height limit. This fact alone was found by the Board (and affirmed by the trial court) to make the property's problems unique. Simply stated, the variance that is desired (and the difficulties that would exist if it is not granted) cannot be the source of the first prong of the variance process—an inherent uniqueness of the subject property not shared by surrounding properties.

The Facts

Appellee's contractor, Donald S. Huber and Company, Inc. (Huber), prepared plans for a garage, wine cellar, and storage area on appellee's property. Using these plans, Huber, on appellee's behalf, applied for a building permit, noting on the application that it was to construct a two story "garage and wine cellar;" "[second] story to be used as storage, [first] floor for garage and wine testing room. Cellar will be for wine." The application indicates that some prior height indication was marked over on the application for a permit and a new mark was made indicating the anticipated height of the structure to be fourteen feet. Huber admitted that he had little experience with the zoning requirements for accessory buildings and

construe the ordinance to require the unreasonable hardship standard to be used when "use" variances are sought, because use variances are believed to be more disruptive of zoning goals and purposes, but require the lesser "practical difficulty" standard when "area" variances are sought.

was unaware of the height limitations. The County's automated tracking system, in creating its general permit application data on the subject property, noted: "Height: 14'" and "Stories: 2+ CELL."

The plans presented to the County included a "Left Side Elevation" but no height is shown on the elevation plan. Neither, as far as we have been able to find, does the plan contain a scale from which the "Left Side elevation" can be determined. The plans also include a "Front Elevation" from which actual proposed heights are also conspicuously, almost suspiciously, absent given that all other dimensions appear to be included on the plans.

We have, however, extrapolated from a horizontal distance indicated on the lower right-hand corner of the "Second Floor Plan" that fourteen feet five and one-half inches equals slightly over three and one-half inches on our ruler. It would appear that the front elevation plan indicates five and one-fourth inches on our ruler or approximately twenty-one and one-half feet in height. When measured in similar fashion, the left side elevation indicates a similar height. Thus, if the other measurements are correct, a method existed in which, even absent a scale, rough height elevations might have been discernable, though we are at a loss to understand why the elevations were not given in feet and why the plans contained no scale.²

After receiving a building permit, appellee proceeded to construct the building that violated the fifteen foot height requirement. During the building process, inspections were made of footings, foundations, framing, and electrical service. Final occupancy was then given. Later, the building was discovered to be twenty-one feet in height.³ Appellee then successfully applied for an after the fact variance. Appellant appealed to the Board of Appeals and it, in a two to one decision, granted the variance that the circuit court ultimately affirmed.

2. Appellee, several times in his brief, states that the plans "clearly" show the height of the building. We are tempted to respond with a short rejoinder. We resist. The heights shown on the plans are not clearly shown—they are not shown at all—but must be computed, as we have done, without the benefit of a scale by a difficult refer-

The Law

The State Zoning Enabling Act was first passed in 1927 by Chapter 705 of the Acts of 1927. It has since been codified as Article 66B of the Annotated Code of Maryland (1957, 1988 Repl.Vol., 1994 Cum.Supp.). While it was generally believed that local subdivisions did not have to enact zoning regulations (and some did not), if enacted, they normally had to conform to the provisions of Article 66B.

Baltimore County, however, is a charter county and is exempt from many of the provisions in Md.Code Art. 66B. See Md. Code Art. 66B § 7.03 which provides "Except as provided in [sections not pertinent here] ... this article does not apply to the chartered counties of Maryland." Nevertheless, the language of Art. 66B relating to variances is virtually identical to the provisions of the Baltimore County ordinance.

The Article 66B provision that provides for variance authority in local zoning ordinances is section 1.00(j). As relevant to an area variance, this section defines a variance under Art. 66B as follows:

[M]odification only of density, bulk, or area requirements in the zoning ordinance ... where owing to conditions peculiar to the property, and not the result of any action taken by the applicant, a literal enforcement ... would result in either, as specified by the local governing body in a zoning ordinance, unnecessary hardship or practical difficulty. [Emphasis added.]

The Baltimore County Zoning Ordinance in section 307, "Variances," provides, in relevant part, that variances from the ordinances provision, i.e., height, may be granted

only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance ... would result in practical diffi-

ence to dimensions that are given for horizontal distances.

3. As we have said, the application, building permit and the county data indicated that its height was to be fourteen feet.

culty or unreasonable hardship. [Emphasis added.]

Accordingly, we shall, in our discussion of cases, refer extensively to cases under the provisions relating to Art. 66B as well as cases under the Baltimore County provisions.

The Baltimore County ordinance requires "conditions . . . peculiar to the land . . . and . . . practical difficulty . . ." Both must exist. But the terms "practical difficulty" and "unreasonable hardship" are stated in the ordinance disjunctively. Thus, at least as to variances other than use variances,⁴ if the property is found to be unique, the practical difficulty standard would then apply. We address practical difficulty at some length hereafter. However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when that uniqueness is first established that we then concern ourselves with the practical difficulties (or unnecessary hardships in use variance cases).

Because we have discerned that some of the confusion in this and other jurisdictions may have arisen because of a tendency to intermingle the concepts of special exceptions/conditional uses⁵ (where normally an applicant has an easier burden) and variances, we shall first discuss the cases (local as well as foreign) and treatises in which the terms are distinguished. We shall then discuss our cases and certain of those elsewhere in which the proper (and, on occasion, improper) applications of variance law have been applied. The Baltimore County statute

4. It is not clear that section 307, "Variances," would even permit any use variances except perhaps as to signs or parking, as the section is framed primarily in terms of "area" variance requests.

5. Matters relating to area issues are intended to be, and usually are, addressed as special exceptions. Matters relating to "use" issues are intended to be, and usually are, addressed as conditional uses. The terms, however, are, with

will then be restated and applied to the facts and circumstances of the case *sub judice*.

Special Exceptions (and Conditional Uses) and Variance— Distinguished

The treatise writers define the concept as:

A variance is an authorization for [that] . . . which is prohibited by a zoning ordinance.

[T]he difference between the two [variances and special exceptions] . . . is of practical significance.

" . . . [T]he variance and exception are designed to meet two entirely different needs. The variance contemplates a departure from the terms of the ordinance in order to preclude confiscation of property, while the exception contemplates a permitted use . . . [once] the prescribed conditions therefor are met."

. . . [A] variance is "authority . . . to use his property in a manner forbidden . . .," while an exception "allows him to put his property to a use which the enactment expressly permits."

. . . [T]he standards for . . . exceptions are usually less stringent than in the case of variances. A Maryland court summarized this difference and the reason for it.

"A special exception . . . is one which is controlled and . . . permissible in a given zone. It is granted . . . upon a finding conditions of the zoning ordinance are satisfied. A variance is authorized . . . where the literal enforcement of its terms would result in unnecessary hardships."

3 Robert M. Anderson, *American Law of Zoning* § 18.02-03 (2d ed. 1977) (footnotes omitted) (quoting in part *Stacy v. Montgomery County*, 239 Md. 189, 193, 210 A.2d 540 (1965)). See also *Schultz v. Pritts*, 291 Md.

some frequency, intermixed. Because both concepts envision that they are permitted so long as certain conditions are met, the indiscriminate use of the two terms has created little difficulty. In a pure sense, however, "conditional uses" refer to uses while exceptions normally apply to area, i.e., yard, height, and density matters. In either event, conditional uses and special exceptions are permitted uses, so long as the conditions set out in the ordinance are met.

Cite as 651 A.2d 424 (Md.App. 1995)

1, 11, 432 A.2d 1319 (1981); *People's Counsel v. Mangione*, 85 Md.App. 738, 748, 584 A.2d 1318 (1991).

A distinction commonly is made between [special] exceptions ... and variances....

An "exception" ... is a dispensation permissible where a board ... finds existing those facts ... specified in the ordinance as sufficient. ... But zoning ordi-

nances usually provide for another kind of dispensation, ... by which a variance ... may be authorized ... where a literal enforcement ... would result in unnecessary hardship."

8 Eugene McQuillin, *Municipal Corporations* § 25.160 (3d ed. rev. 1991) (footnotes omitted).

The general rule is that variances and exceptions are to be granted sparingly, only in rare instances and under peculiar and exceptional circumstances.... A variance should be strictly construed....

Id. § 25.162 (footnotes omitted). See also 5 Norman Williams, Jr. et al., *American Land Planning Law* § 133.01 (1985 rev.); 3 Arden H. Rathkopf, *The Law of Zoning and Planning* § 38.01 (4th ed. 1981); 3 E.C. Yokley, *Zoning Law and Practice* § 21-6 (4th ed. 1979); 3 Robert M. Anderson, *American Law of Zoning* § 14.55 (1968); Anderson, *supra* § 18.30 (2d ed.).

Maryland courts, and courts elsewhere, have generally made the same distinction. There is a marked distinction between "variance" and "special exception" in Montgomery County. A special exception ... is expressly permissible.... [A zoning board has authority to grant] variances from the strict application of this chapter when by reason of exceptional narrowness, shallowness, or shape of specific parcels of property ... or by reason of exceptional topographical conditions or other extraordinary situations ... of specific parcels of property, the strict application ... would result in ... unusual practical difficulties to, or exceptional or undue hardship....

Stacy, 239 Md. at 193, 210 A.2d 540.

Judge Hammond for the Court of Appeals noted in *Montgomery County v. Merlands*

6. Exceptional is used here in its generic sense.

Club, Inc., 202 Md. 279, 288-91, 96 A.2d 261 (1953):

It is the common practice to join an application for an exception with an application for a variance, leaving it to the Board to decide on which ground it will grant the application. As a result, many cases discuss exceptions and variances without differentiation, yet the two do differ, and one important distinction is that where a specific use is permitted by the legislative body in a given area ... the application can be granted without a showing of hardship or other conditions which are necessary for the allowance of a variance....

... There is a distinction between ... the ordinance provisions ... in those cases [Baltimore City cases] and the facts and the ordinance provision in this case....

See also our case of *Martin Marietta Aggregates v. Citizens*, 41 Md.App. 26, 34-35, 395 A.2d 179 (1978).

A conditional use is not a variance. The primary difference between the two is that a conditional use is not an exceptional¹⁶ use. A conditional use is a desirable use which is attended with detrimental effects which require that certain conditions be met.... While a variance is a departure from the terms of an ordinance, a conditional use is a permitted use ... so long as ... conditions are met. Therefore, conditional use grants cannot be encompassed within the ... statutory authority to grant variances.

Eberhart v. Indiana Waste Systems, Inc., 452 N.E.2d 455, 459 (Ind.App. 3 Dist.1983) (citations omitted).

In a case affirming the granting of a special exception, the court in *Ash v. Rush County Bd. of Zoning Appeals*, 464 N.E.2d 347, 350 (Ind.App. 1 Dist.1984), opined:

A great deal of confusion has been generated ... because of the parties' failure to distinguish among rezoning amendments, variances, and special exceptions.... A variance involves a deviation ... from the

legislated zoning classification. . . . A special exception involves a use which is permitted . . . once certain statutory criteria have been satisfied. [Citations omitted.] See also *Lindquist v. Board of Adjustment*, 490 So.2d 16, 18 (Ala.Civ.App.1986) ("Thus a special exception is not truly an exception to the zoning regulations at all") and ("a special exception may not be used as a substitute for a variance in order to avoid the . . . burden of proving . . . hardship"); *Wolfner v. Board of Adjustment*, 672 S.W.2d 147, 150 (Mo.App. 1984) ("an exception is legislatively permitted whereas a variance is legislatively prohibited, but may be allowed for special reasons"); *Urban Farms, Inc. v. Franklin Lakes*, 179 N.J.Super. 208, 431 A.2d 163, 167 (A.D.), cert. denied, 87 N.J. 428, 434 A.2d 1099 (1981) (special exception and variance defined—case decided on zoning estoppel basis); *A.J. Grosek & Associates v. Zoning Hearing Bd.*, 69 Pa.Cmwlth. 38, 450 A.2d 263, 265 (1982); *Bell v. City Council*, 224 Va. 490, 297 S.E.2d 810, 813-14 (1982).

VARIANCE—

The First Step—Uniqueness or Peculiarity of the Subject Property

The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. See, e.g., A. Rathkopf, 3 *The Law of Zoning and Planning* § 38 (1979).

Doorack v. Board of Adjustment, 709 S.W.2d 140, 143 (Mo.App.1986). See also *McMorrow v. Board of Adjustment*, 765 S.W.2d 700, 701-02 (Mo.App.1989); *Taylor v. Board of Zoning Adjustment*, 738 S.W.2d 141, 144 (Mo.App.1987).

The requirement of uniqueness of the subject property, as we have indicated, is specifically set out for noncharter counties in the State enabling legislation, Md.Code Article 66B, and it is also set out in the Baltimore County ordinance applicable here. Additionally, it has been a necessary prerequisite almost since the inclusion of variance practice in zoning laws—and, before that, it was a part of Maryland case law. That case law is in accord generally with the case law elsewhere as we shall later discuss.

Early on, prior to the State specifically empowering local governments to delegate the granting of variances to zoning boards, the Maryland Court of Appeals found that the delegation of power to an administrative board to grant variances from the terms of a zoning "type" ordinance was improper because

the board of zoning appeals is in effect given the power to set aside or annul the ordinance . . . with no more definite standard or guide than that such action may only be taken when there are "practical difficulties or unnecessary hardships" [U]nder our system of written constitutions it is essential that they accomplish those . . . objects in conformity with the restrictions, rules, and limitations which the law itself provides and not in disregard of them. . . . For such phrases as "practical difficulties," "unnecessary hardships," "substantial justice," are too general and indefinite to furnish such a guide, or to mark the limits or control the exercise of the power conferred. . . .

Jack Lewis, Inc. v. Mayor and City Council of Baltimore, 164 Md. 146, 151, 164 A. 220, appeal dismissed, 290 U.S. 585, 54 S.Ct. 56, 78 L.Ed. 517 (1933) (though it questioned the variance provisions under which the appellant sought a variance to operate a funeral home, it upheld the restriction prohibiting the funeral home in the first instance). In *Sugar v. North Baltimore Methodist Protestant Church*, 164 Md. 487, 165 A. 703 (1933), the Court likewise found the board's powers to grant special exceptions to permit a confectionery store where otherwise prohibited to be invalid for the same reasons.

In moving towards an acceptance of variance procedures, the Court noted that the "increasing need for garages in the cities was one of the main reasons for the rapid spread of zoning in this country." *Heath v. Mayor and City Council of Baltimore*, 187 Md. 296, 300, 49 A.2d 799 (1946). By the time of its decision in *Heath*, the Court had accepted the inevitable need for formal variance and special exception provisions, noting that "[c]haos would result if [a building engineer] were allowed to make exceptions or variances

in his own discretion." 187 Md. at 301, 49 A.2d 799. The Court further pointed to the special exception powers of the Board of Zoning Appeals as a legally acceptable alternative. The Court also observed that, in response to its decisions in *Jack Lewis and Sugar*, the city had amended the Baltimore City ordinance to incorporate additional standards to guide the Board. The Court then correctly defined an exception as "a dispensation permissible where the Board ... finds ... those facts ... specified in the ordinance...." *Id.* 187 Md. at 303, 49 A.2d 799.

It was then that the court, for the first time that we can discern, combined exceptions and variances when discussing conformity to the rules in regard to the grant of either. This is the first instance where the two concepts were intermingled with respect to the Baltimore City ordinance. To a certain extent, this intermingling has, from time to time, created some confusion in the cases arising out of Baltimore City. Because of the proportionately larger number of cases arising out of that jurisdiction, that confusion can be seen in subsequent cases arising from other jurisdictions. This intermingling increased over the years and, during this time, Baltimore City amended its ordinance and eventually became subject to an ordinance that does not distinguish between variances and exceptions except as to the title of their respective sections. In other words, Baltimore City, by the terms of its ordinance, applies the same standards to both variances and special exceptions; this standard is the one used elsewhere for variances. Thus, the Baltimore City special exceptions procedure is one only by title. For all practical purposes, it is also a variance procedure.

Caution should always be used therefore when a court is concerned with special exceptions, as reliance on the cases from Baltimore City may well lead one to rely on inapposite zoning concepts and cases. Judge Marbury, for the Court of Appeals, noticed this unusual circumstance in *Dampman v. Mayor and City Council of Baltimore*, 231 Md. 280, 285, 189 A.2d 631 (1963) ("In Baltimore City there

7. Another typical Baltimore City case in that regard is *Easter v. Mayor and City Council of Baltimore*, 195 Md. 395, 400, 73 A.2d 491 (1950), where the Court noted "facts to justify an excep-

appears to be no distinction between the two terms...."). We also attempted to indicate the problem in *North v. St. Mary's County*, 99 Md.App. 502, 510, 638 A.2d 1175 (1994), in footnote 3:

Baltimore City's zoning code makes no distinction between special exceptions and variances. Its code treats special exceptions as if they were variances.... [I]t is generally inexact to rely on Baltimore City cases when a special exception is at issue in another jurisdiction, but would be appropriate when a variance is at issue.

In any event, as to variances, the Court of Appeals, applying the uniqueness standard, stated:

[I]t was incumbent upon the Marinos to have shown ... (ii) that the difficulties or hardships were peculiar to the property in question in contrast with those of other property owners in the same district, and (iii) that the hardship was not the result of the applicants' own actions.

Marino v. Mayor and City Council of Baltimore, 215 Md. 206, 218, 137 A.2d 198 (1957) (emphasis added). *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 214 A.2d 810 (1965), also involved the completion of structural improvements in violation of an ordinance and a subsequent request for an after the fact variance. The Court opined:

The only evidence before the Board as to hardship or injustice involving the property was the fact that repairs and alteration work had been substantially completed before an application for either a variance or a building permit had been made and that what had been done could not be undone without financial hardship to appellees....

240 Md. at 554, 214 A.2d 810. The Court first quoted from 2 Rathkopf, *The Law of Zoning and Planning*, § 48-1, and then noted:

"Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions ... hardship

tion ... [show] that the hardship affects the particular premises and is not common to other property in the neighborhood." This is a variance standard.

arises.... The restrictions of the ordinance, taken in conjunction with the unique circumstances affecting the property must be the proximate cause of the hardship.... [T]he hardship, arising as a result of the act of the owner ... will be regarded as having been self-created, barring relief...."

The instant case fits squarely within the above general rule.... [I]f the appellees had used proper diligence.... and then made accurate measurements ... [the resultant hardship could have been avoided]. The hardship ... was entirely self-created....

Id. at 554-55, 214 A.2d 810 (emphasis added). Had Ward's contractor, Huber, in the case at bar, checked the ordinance's height limitation, the situation that now exists could easily have been avoided. See also *Burns v. Mayor and City Council of Baltimore*, 251 Md. 554, 559, 248 A.2d 103 (1968); *Pem Constr. Co. v. Mayor and City Council of Baltimore*, 233 Md. 372, 378, 196 A.2d 879 (1964) ("[There was] no evidence of any limitation ... by ... size of yards, irregularity of shape of land or buildings, topography, grade or accessibility"....); *Mayor and City Council v. Sapero*, 230 Md. 291, 186 A.2d 884 (1962); *Frankel v. Mayor and City Council of Baltimore*, 223 Md. 97, 104, 162 A.2d 447 (1960) ("It was incumbent ... to show that the hardship ... affected his particular premises and was not ... common to other property in the neighborhood.... [H]e met the burden...."); *Park Shopping Center, Inc. v. Lexington Park Theatre Co., Inc.*, 216 Md. 271, 277-78, 139 A.2d 843 (1958).

Secs. 14(b), 14(d) and 16 ... have been held not to authorize a granting for the mere convenience to the owner but to require a showing of urgent necessity, hardship peculiar to the particular property....

Mayor and City Council v. Polakoff, 233 Md. 1, 9, 194 A.2d 819 (1963).

The Court in *Kennerly v. Mayor and City Council of Baltimore*, 247 Md. 601, 606-07, 233 A.2d 800 (1967), dismissed an appeal of the grant of a height variance for lack of standing, but, in doing so, nevertheless opined:

Our dismissal of the appeal is not to be taken as showing that if the appeal properly was here we would affirm the Board. To grant a variance the Board must find from the evidence more than that the building allowed would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner. The Board must find there was proof of "urgent necessity, hardship peculiar to the particular property...." Specific reasons, specific bases to support the finding must be revealed by the evidence before the Board. [Emphasis added, citation omitted.]

In *McLean v. Soley*, 270 Md. 208, 210, 310 A.2d 783 (1973), one of the few reported Maryland appellate cases approving of a variance, the applicant for an area variance in connection with an application to build forty units asserted that it was his desire to retain the "present trees and natural growth, terrain, and topography which provides excellent drainage and natural screening and beauty." There was evidence that, if the applicant destroyed the existing trees, he could have built 330 units without needing a variance. It was established that a number of attractive trees along the western boundary would have to be destroyed absent a variance. The Court noted that "there was considerable evidence to show the natural beauty of these trees and their importance to the ecology." 270 Md. at 211, 310 A.2d 783. The Court, seeming to acknowledge that it was making a detour from Maryland variance law, opined:

Given the unique facts of this case, we think those criteria are met by this evidence: That the construction of the buildings in strict compliance with the sideyard requirements would result in the destruction of the trees; that the preservation of trees in the construction of the first section had contributed to full occupancy ... that the benefits of retaining the trees would accrue to the general public; that greater density would result from strict compliance....

Concededly, this is a close case, but it is nevertheless sufficient....

Id. at 215, 310 A.2d 783. We would have to agree that it is a close case. The opinion does not make mention that the practical difficulty resulted from the fact that the uniqueness of the property caused the ordinance to have a different impact on it than on adjoining property. Also, there was no evidence that the neighboring properties were in any way different than the subject property. If the presence of trees on a particular lot was unique, that might have been a basis, but the court did not make that connection. Thus, this case, coupled with *Loyola Federal Savings & Loan Assoc. v. Buschman*, 227 Md. 243, 176 A.2d 355 (1961), and *Frankel v. Mayor & City Council of Baltimore*, 223 Md. 97, 162 A.2d 447 (1960), is among the affirmances of variances that we perceive to be, at best, extremely close calls and, as we shall indicate, exceedingly rare.

The Court in the sludge storage case of *AD + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 513 A.2d 893 (1986), reiterated the standards applicable to variances when it affirmed a trial court's affirmance of a zoning agency's denial of an area and other variances. The variances were necessary to satisfy the requirements for a conditional use permit to operate the sludge storage and distribution operation. The Court of Appeals noted that the trial court, in affirming the agency's denial of a variance, agreed that "the only hardships facing Ad + Soil were of its own making." 307 Md. at 317, 513 A.2d 893. After addressing the important preemption issues therein raised, the Court directed its attention to the area variances sought and, referring to the Board's findings, stated that, in Queen Anne's County, the Board's authority to grant variances was limited to a situation where "there are exceptional or extraordinary circumstances or special conditions applying to the property in question ... that do not apply generally to other properties ... in the ... district." *Id.* at 340, 513 A.2d 893. The Court concluded:

The board declined to grant the variances, concluding that Ad + Soil's "hardship" was self-inflicted, and, in any event, that it was not the result of exceptional or extraordinary characteristics of the land itself and therefore not the kind of hardship

cognizable under the Zoning Ordinance.....

We think the Board's decisions ... reflect no error of law.

Id. at 340-41, 513 A.2d 893 (emphasis added).

In *Red Roof Inns, Inc. v. People's Counsel*, 96 Md.App. 219, 224, 624 A.2d 1281 (1993), after noting the standard of review, we said:

In reviewing the zoning authority's decision, the court must consider all of the evidence in the administrative record. The reviewing court's role, however, is confined to determining the legality of the procedure employed and whether the decision was fairly debatable in light of the evidence adduced before the zoning authority.

The role of this Court "is essentially to repeat the task for the circuit court; that is, to be certain the circuit court did not err in its review." [Citations omitted.]

We then discussed the legal standards to utilize in respect to variances construing the same statute that applies in the case at bar, saying that variances may be granted "where special circumstances or conditions exist that are peculiar to the land ... and where strict compliance ... would result in practical difficulty...." *Id.* (emphasis added). We noted that, in regards to area variances, we were only concerned that the conditions peculiar to the land in question presented practical difficulties. In concluding that the Board had not acted wrongly in denying the variance at issue (a sign variance), we noted: "Zoning matters, including sign variance requests, depend upon the unique facts and circumstances of a particular location and must be analyzed individually." *Id.* at 227-28, 624 A.2d 1281 (emphasis added).

In *North v. St. Mary's County*, 99 Md.App. at 512, 638 A.2d 1175, we held that the ordinance there required a finding that "special conditions or circumstances exist that are peculiar to the land...." We there stated that, in the zoning context, the term "unique" has a customized meaning:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring proper-

ty. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Appeals, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339, 513 A.2d 893 (1986), quoted from the Queen Anne's County ordinance:

Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific ... property ..., or by reason of exceptional topographic conditions or other extraordinary situation or special condition of ... property ... the literal enforcement ... would make it exceptionally difficult ... to comply ... and would cause unwarranted hardship and injustice....

The general thrust of the meaning of special features or uniqueness of property for variance purposes relates to the type of uniqueness discussed by the Court in *Ad + Soil, Inc.*

Id. at 514-15, 638 A.2d 1175.

One indication of the general rule that variances are rarely appropriate is that, in our review of the reported Maryland cases since the creation of the state zoning enabling act in 1927, we have found only five reported Maryland cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed. The cases are *McLean*, *supra*; *Stacy*, *supra*; *Sapero*, *supra*; *Loyola Federal Savings & Loan Assoc.*, *supra* (a Baltimore County case); and *Frankel*, *supra*. All of these cases were decided over a twelve-year period and the last of them was decided more than twenty-one years ago. Three of them, *Frankel*, *Loyola*, and *McLean* appear to be somewhat

at odds with accepted Maryland law. *McLean* was described by the Court as a "[c]oncededly ... close case...." *Frankel* has caused some confusion in that it has later been viewed by some as lowering the standards for the granting of variances. *Mayor and City Council of Baltimore v. Borinsky*, 239 Md. 611, 212 A.2d 508 (1965), involved one of the same issues that was presented in *Frankel*, i.e., whether a zoning restriction so compromised the use of property as to constitute an unconstitutional taking absent the granting of a variance—a variance *Frankel* was granted. The Court noted that the trial court had found *Frankel* controlling. The Court of Appeals disagreed. The Court acknowledged that *Borinsky* had the "same expert witness," "he was asked the same general questions ... and gave the same answers," and that the "economic suicide" present in *Frankel* was "doubly true in this instance." *Id.* 239 Md. at 624, 212 A.2d 508. The Court, nevertheless, made a factual distinction and declined to apply *Frankel*. Judge Barnes opined in dissent that, based on what the Court had done in *Frankel*, the facts for variances were stronger in *Borinsky*. *Sapero* and *Stacy* met traditional standards for the granting of variances. *Frankel*, *Loyola*, and *McLean* were anomalous cases.

In any event, nowhere in those five cases, or any others, has the Court of Appeals ever changed the Maryland rule relating to uniqueness and peculiarity of the subject property.

Cases from other jurisdictions are generally in accord.

The Supreme Court of Nebraska in *Bowman v. City of York*, 240 Neb. 201, 482 N.W.2d 537 (1992), reversed the grant of a variance for a structure after, pursuant to the variance, the structure was constructed. Citing an earlier Nebraska case, *Frank v. Russell*, 160 Neb. 354, 70 N.W.2d 306 (1955), and noting that the Nebraska statute had been made more specific in light of *Frank*, the court said 482 N.W.2d at 545: "[A] variance [may be granted] ... only if strict application of the regulation, because of the unusual physical characteristics of the property existing at the time of the enactment, [of

the zoning ordinance] 'would result in peculiar and exceptional practical difficulties ... or exceptional ... hardships....'

In *Shafer v. Zoning Bd. of Appeals*, 24 Mass.App. 966, 511 N.E.2d 635 (1987), the property owner had conveyed away several parcels from a larger tract leaving a parcel, the size of which was prohibited under the ordinance. The Board granted him a variance, the trial court reversed it, and the appellate court affirmed the trial court. The appellate court reiterated the trial court's finding:

There was no evidence ... regarding "soil conditions, shape or topography of [the property] ... especially affecting [the property] but not affecting generally the zoning district in which it is located".... The ... argument that the insufficient width ... constitutes a special circumstance of "shape" is unpersuasive, particularly as the deficiency is one which they themselves produced through subdivision of the land they originally owned at a time when the 125 foot width requirement pertained.

511 N.E.2d at 636-37 (citation omitted). See also *VanLandschoot v. City of Mendota Heights*, 336 N.W.2d 503, 509 (Minn.1983) ("the plight of respondent was not due to circumstances 'unique to his property.' ... [S]ome of the problems were the result of illegal acts of respondent's predecessor in title, of which respondent was aware....")

In *St. Clair v. Skagit County*, 43 Wash. App. 122, 715 P.2d 165 (1986), a landowner applied for a variance of a lot width requirement on the grounds that the county had given him a permit to install a trailer on her fifty-foot wide lot even though the ordinance mandated a width of at least seventy feet. The zoning board, approving the variance, determined that she had applied for the permit in good faith. The Skagit County ordinance, as does the instant statute, provided that a variance had to be "because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings...." 715 P.2d at 167. The code also required that an application for a variance include a narration that "special conditions and circumstances exist ... pecu-

liar to the land...." *Id.* The court then noted that the applicant had done there what Ward attempts to do in the case *sub judice*:

[The appellant] relied primarily upon the fact that the County issued a building permit ... and that she acted in good faith....

Id. at 168. The court responded: "Reasons for a variance must be reasons pertaining to the property itself.... Evidence of hardship or difficulty that will support a variance must relate to the land itself and not to the owner-applicant." *Id.* (citation omitted). The court added that "the 75-foot width and aggregation requirements do not put a burden on [appellant's] property which does not apply to other properties in the vicinity...." *Id.* at 169. In the case *sub judice*, the Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward's property alone; it applies to all of the properties in the neighborhood.

In *Walkingstick v. Board of Adjustment*, 706 P.2d 899 (Okla.1985), the zoning board, having failed to comply with notice requirements, granted a permit for an oil drilling well. Amoco had expended considerable sums before the board's omission was discovered. The relevant part of the ordinance involved was similar to the one in the instant case. After the court noted that the hardships alleged were not peculiar to the subject site, it stated the general rule that "a hardship created by the owner ... constitutes no valid basis for a variance.... [D]eprivation of an advantage does not constitute an unnecessary hardship." 706 P.2d at 904. It concluded:

The need to expose tools to the ravages of the environment may be peculiar to Amoco. But, the language of section 44-107(2) [as does the language in the Baltimore County ordinance] clearly refers to conditions peculiar to the property, not to activities peculiar to the owner of such property.

Id. at 904-05 (emphasis added).

In a decision somewhat difficult to understand, which carried the variance limitations to the extreme and predated the 1992 case of *Lucas v. South Carolina Coastal Council*,

— U.S. —, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992), but had facts similar to *Lucas*, the Supreme Court of Delaware in *Baker v. Connell*, 488 A.2d 1303 (Del.Supr.1985), upheld a trial court's reversal of the grant of a variance even though the ordinance limited the use of applicant's entire lot to open space only. The zoning board had found that the property was unique because the entire property was zoned open space and *nothing* could be constructed there. The board permitted a variance to allow two semi-detached dwellings. The trial court reversed on the grounds that the 0-1 zoning did not make the property unique. The trial court noted that a need for a variance arises only when the plight of the property is unique in that it cannot reasonably be put to a conforming use. The trial court found that there was no evidence that the property could not conform to open space land. The appellate court affirmed, stating:

[F]inancial return . . . alone, never justifies a variance. As to the unique character of the land, the mere fact that it sits entirely within the 0-1 zone does not make it unique. There is no evidence that this lot is the only one of its type in Rehoboth. Nor does it become unique because it adjoins the R-2 zone containing multi-family units.

488 A.2d at 1309. Whether this Delaware opinion remains viable in light of *Lucas* and *Dolan v. City of Tigard*, — U.S. —, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994), is doubtful.

The case of *Xanthos v. Board of Adjustment*, 685 P.2d 1032 (Utah 1984), involved a factual scenario similar to the case *sub judice*. The Xanthoses received notice that they were in violation of the city zoning code. The building of a duplex by the Xanthoses caused a pre-existing dwelling to lose frontage on a public street and to violate set-back and parking requirements. The Xanthoses requested variances in reference to the violations. The court initially noted that, "in order to justify a variance . . . the applicant [must] show . . . that there are special condi-

tions with regard to the property . . ." 685 P.2d at 1035-36. The court continued:

What must be shown . . . is that the property itself contains some special circumstance that relates to the hardship complained of . . .

The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself. Simply having an old building on land upon which a new building has been constructed does not constitute special circumstances.

Hardship is not demonstrated by economic loss alone. It must be tied to the special circumstances, none of which have been proven here. Every person requesting a variance can indicate some economic loss. To allow a variance anytime any economic loss is alleged would make a mockery of the zoning program. Further, the Xanthos[es] brought their losses upon themselves. The application affirmatively alleged . . . that no dwelling existed. . . .^[8]

Id. at 1036-37 (footnotes omitted).

[1] The Xanthoses also argued, in a fashion similar to the argument in the case *sub judice*, that the city should be estopped because the plot plan submitted to the city showed the dwelling and the fact that the city failed to realize it misled them to their detriment. The court noted, in rejecting the Xanthoses' argument: "[T]o hold that the city should have been put on notice . . . in the face of an affirmative statement that no such dwelling existed, would put a premium on prevarication . . . and . . . shift the burden of proof in variance cases to the city. None of these results is acceptable." *Id.* at 1038. In the case at bar, appellants' application for the permit contained a clear statement that he would comply with the zoning requirements. His plan's elevation schematics contained neither elevation dimensions nor scale. While the zoning inspectors might have been able to extrapolate dimensions from other schematics, they certainly were not required

height of the structure.

8. The application and plans in the case *sub judice* were, at best, vague and unclear as to the

to do so in light of appellants' affirmative statement of compliance.

See also *Chambers v. Smithfield City*, 714 P.2d 1133, 1135 (Utah 1986), where the court stated: "[T]here is no evidence of special conditions attached to the property itself which do not also attach to other property in the vicinity. The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself." (Footnote omitted.) In a case involving the conversion of a garage into a dwelling, the Supreme Court of Virginia in *Prince William County Bd. of Zoning Appeals v. Bond*, 225 Va. 177, 300 S.E.2d 781 (1983), reversed a trial court decision reversing a zoning board's denial of a variance. The court noted that the conversion was underway when the Bonds discovered a need and applied for a variance. It opined that, in order to grant a variance, the hardship allegedly created by the ordinance must "not [be] shared generally by other properties in the same zoning district and the same vicinity." 300 S.E.2d at 783. It then held: "The limitation imposed by the zoning ordinance is one shared by all property owners in the A-1 district." *Id.*

The court in *Richardson v. Town of Salisbury*, 123 N.H. 98, 455 A.2d 1059, 1061 (1983), noted:

We have defined unnecessary hardship as follows:

"A hardship exists only if due to special conditions *unique to a particular parcel of land*, the ordinance unduly restricts the use.... The hardship must relate to the special character of the land rather than to the personal circumstances of the landowner." [Emphasis added.]

See also *Margate Motel, Inc. v. Gilford*, 130 N.H. 91, 534 A.2d 717 (1987); *Ryan v. City of Manchester Zoning Bd. of Adjustment*, 123 N.H. 170, 459 A.2d 244 (1983).

In *Sibley v. Inhabitants of the Town of Wells*, 462 A.2d 27, 30-31 (1983), the Supreme Judicial Court of Maine upheld the denial of a variance, holding:

[T]he need for a variance [must be] due to the unique circumstances of the prop-

erty and not to the general conditions in the neighborhood;

... [T]he hardship [must] not [be] the result of action taken by the appellant or a prior owner.

... However, the mere fact that the lot is substandard is not a unique circumstance; all the undeveloped lots in that neighborhood are of substandard size....

... However, when a landowner purchases land with actual or constructive knowledge of the zoning restrictions, he may not be granted a variance on the grounds of undue hardship.

See also *Williams v. Salem Township*, 92 Pa.Cmwlth. 634, 500 A.2d 933 (1985) *alloc. denied*, 516 Pa. 615, 531 A.2d 781 (1987); *Hersh v. Zoning Hearing Bd. of Marlborough Township*, 90 Pa.Cmwlth. 15, 493 A.2d 807 (1985); *Serban v. Zoning Hearing Bd. of the City of Bethlehem*, 84 Pa.Cmwlth. 558, 480 A.2d 362 (1984) (burden sustained); *Davis v. Zoning Bd. of Adjustment*, 78 Pa.Cmwlth. 645, 468 A.2d 1183 (1983) (burden sustained); *Malakoff v. Zoning Bd. of Adjustment*, 72 Pa.Cmwlth. 109, 456 A.2d 1110 (1983); *Immordino v. Zoning Hearing Bd.*, 65 Pa.Cmwlth. 79, 441 A.2d 818, 821 (1982) ("[P]roperty owner must sustain the heavy burden of proving that the zoning ordinance imposes an unnecessary hardship which is *unique to his particular property*....") (Emphasis added.)

A prerequisite to the granting of a hardship zoning variance is the presence of an exceptional and unique hardship to the individual landowner, *unique to that parcel* and not shared by other property owners in the area.... Indialantic's zoning restrictions are common difficulties shared by all other oceanfront lot owners in the area, and are therefore not the unique hardship required to support a variance.

Town of Indialantic v. Nance, 400 So.2d 37, 40 (Fla.App. 5th Dist.1981), *aff'd*, 419 So.2d 1041 (1982) (citation omitted). See also *Fort Lauderdale Bd. of Adjustment v. Nash*, 425 So.2d 578, 579 (Fla.App. 4th Dist.1983); *City of Naples v. Clam Court Marina Trust*, 413 So.2d 475, 477 (Fla.App. 2d Dist.1982); *Lake-*

shore Property Owners Ass'n v. City of New Orleans Zoning Bd. of Appeals and Adjustments, 481 So.2d 162, 168 (La.App. 4th Cir. 1985), *cert. denied*, 484 So.2d 674 (1986).

We mentioned earlier that there are very few Maryland cases upholding the grant of a variance (or the reversal of a denial). We likewise note that this is also the case in foreign jurisdictions. We mentioned two cases from Pennsylvania above where this occurred. We now discuss several others.

A minimum lot area variance was affirmed in *Russell v. District of Columbia Bd. of Zoning Adjustment*, 402 A.2d 1231 (D.C.App. 1979), where, due to the size of the lot, no viable economical use of the property could be had without the variance. It was determined that the lot was the only lot in the area that had been subdivided into smaller lots prior to the adoption of the zoning ordinance. The Supreme Court of New Hampshire reversed the denial of a variance in *U-Haul Co. of New Hampshire & Vermont, Inc. v. City of Concord*, 122 N.H. 910, 451 A.2d 1315, 1317 (1982), saying: "The location and characteristics of the property involved create greater security requirements ... than ... other property in the area because the parcel ... is less central ... less populated and ... less serviced by law enforcement patrols. This hardship arises from the uniqueness of the building and the land itself." In *Atwood v. City of Portland*, 55 Or.App. 215, 637 P.2d 1302 (1981), *cert. denied*, 292 Or. 722, 644 P.2d 1131 (1982), application for a variance was granted and affirmed on appeal in part because the site was a steep and rocky slope, the former site of a landfill. See also *Higgins v. Township of Radnor*, 13 Pa.Cmwlth. 195, 318 A.2d 761, 763 (1974).

The treatise writers also are in accord with the rule that variances should only be granted when the uniqueness or peculiarity of a subject property is not shared by neighboring property and where the uniqueness of that property results in an extraordinary impact upon it by the operation of the statute, thus creating undue difficulty (or unnecessary hardship in respect to use variances).

It is *fundamental* that the difficulties or hardships must be unique to justify a vari-

ance; they must be peculiar to the application of zoning restrictions to particular property and not general in character....

[I]t is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion. If the hardship is common to the whole neighborhood, it may be ground for an exception or special use permit [if the statute so provides]. ... [T]he hardship [in order to justify a variance, however] must relate to the particular property of the applicant.

McQuillin, *supra* § 25.167 (emphasis added, footnotes omitted).

[I]t is held that a variance may be granted only for hardship which relates specifically to the applicant's land. Thus, a landowner was not entitled to a variance to relieve his land from a restriction which applied equally to all lots of similar size.

Anderson, *supra* § 14.55 (1968).

It follows that the unnecessary hardship ... must relate to the land, not to the applicant-owner. Hardship which is merely personal to the current owner of real property will not justify the granting of a variance....

In each case [where the variance was denied], the hardship results from an error on the part of the landowner, not from an unduly severe impact of the regulations upon the land in question....

....
Reviewing a wide variety of variance applications based upon reasons personal to the applicant, the courts have consistently held that such personal difficulties do not constitute unnecessary hardship.

Anderson, *supra* § 18.30 (2d ed.) (footnotes omitted).

The most important part of [the] law of variances depends upon a distinction between two kinds of hardship. In one type of case, hardship in developing a given lot ... arises from circumstances peculiar to that lot ...; and in that case the appropriate remedy is ... a variance.... In the other types of cases, the hardship ... may arise because of conditions which are general in the neighborhood; ... it is often

held that the appropriate remedy is a change in the zoning.... [T]he courts have usually (but not always) held that variances are inappropriate in that situation.

Williams, *supra* § 142.

The great strengthening of the criteria for granting variances, ... has thus been particularly evident in the number of cases emphasizing the requirement that hardship must arise from circumstances unique to the particular lot in question.... Moreover, the courts have again emphasized that a variance granted to take care of some hardship personal to the applicant is not a unique hardship resulting from circumstances peculiar to the piece of land.

Id. § 142.06. See also Rathkopf, *supra* § 38.04; Yokley, *supra* § 21-6. ("The burden of proof is on the applicant to establish that his land is uniquely affected resulting in unnecessary hardship.")

Yokley quotes from *Taxpayers Association v. Board of Zoning Appeals*, 301 N.Y. 215, 93 N.E.2d 645, 647 (1950):

[T]he record does not show that the property suffers a unique or singular disadvantage, not common to other property in the district, through the operation of the zoning ordinance. Here, the hardship, if any, is general and characteristic of the entire area, and the remedy lies in a revision of the zoning ordinance through legislative action, not by the granting of a variance to a single property owner.

Yokley, *supra* § 21-6.

[2] We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been—a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists. Before applying the facts of the instant case to the law and, thus, resolving the case *sub judice*, we must touch upon two other aspects of the process, *i.e.*, the self-inflicted injury

and the zoning authorities' acquiescence in issuing a building permit based on plans that left unclear the elevation of the structure and the subsequent inspection.

Self-Inflicted Hardship

[3] We have before referred to *Marino v. Mayor and City Council of Baltimore*, 215 Md. 206, 137 A.2d 198. There, the Court said, "it was incumbent [on the applicant] to [show] ... that the hardship was not the result of the applicants' own actions." *Id.* at 218, 137 A.2d 198. The Court of Appeals noted in *AD + Soil, Inc. v. County Comm'rs*, 307 Md. at 340, 513 A.2d 893:

The essence of AD + Soil's argument ... is that the setback requirements ... would cause ... unwarranted hardship because it had obtained its first state permit and constructed its transfer station before it learned of these local requirements.... The Board declined to grant the variances, concluding that AD + Soil's "hardship" was self-inflicted ... and therefore not the kind of hardship cognizable under the Zoning Ordinance.

The Court affirmed the Board. Foreign jurisdictions are generally in accord. See *Pollard v. Zoning Bd. of Appeals*, 186 Conn. 32, 438 A.2d 1186, 1190 (1982) ("[S]elf-inflicted or self-created hardship ... is never considered proper grounds for a variance." ... "[W]here the applicant ... creates a nonconformity, the board lacks power to grant a variance.") (citations omitted); *Volkman v. City of Kirkwood*, 624 S.W.2d 58 (Mo.App. 1981); *Matter of Schrader*, 660 P.2d 135 (Okla. 1983); *Ex Parte La Quinta Motor Inns, Inc. v. Greenville County Bd. of Zoning Appeals*, 279 S.C. 598, 310 S.E.2d 438 (App.1983); *McClurkin v. Board of Zoning Appeals*, 565 S.W.2d 495 (Tenn.1977); *Steele v. Fluvanna County Bd. of Zoning Appeals*, 246 Va. 502, 436 S.E.2d 453, 456 (1993) ("[T]he hardship, if any, was self-inflicted. The placement of the improvements ... was within the control of the Garretts and their contractor, Rain-tree."). See also *Shafer, supra*; *VanLand-schoot, supra*; *Walkingstick, supra*; *Xanthos, supra*; *St. Clair, supra*. Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, ef-

fectively not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

The Granting of the Permit

In *Francis v. MacGill*, 196 Md. 77, 75 A.2d 91 (1950), a property owner sought equitable injunctive relief. The facts were that while the enactment of a zoning ordinance was pending, the property owner obtained a building permit to construct that which would not be permitted after the enactment of the ordinance. After the ordinance was enacted, the owner constructed, pursuant to the permit, a building that had become prohibited by reason of the passage of the ordinance. The Court noted:

"Adoption of zoning ordinance *ipso facto* revokes permit for construction ... where no construction has begun."

... They completely ignored the Zoning Regulations, and they were engaged in an unlawful act.

196 Md. at 85, 75 A.2d 91 (citation omitted). The Court affirmed the revocation of the building permit.

The Court noted, pursuant to a timely appeal, in *Mayor and City Council of Baltimore v. Shapiro*, 187 Md. 623, 634, 51 A.2d 273 (1947), *overruled on other grounds in Nutter v. Non-Profit Housing Co.*, 230 Md. 6, 185 A.2d 360 (1962), where the ordinance was changed prior to commencement of construction under a permit, and where the change made that use, which was previously permitted, prohibited, that the "mere issuance of a permit ... does not create a vested right, or estop⁹ the municipal authorities from revoking it." In a case for the issuance of a mandatory injunction that involved an attempt to obtain a permit for what was alleged would be a nonconforming use the court opined in *Board of County Comm'rs v. Snyder*, 186 Md. 342, 347, 46 A.2d 689 (1946): "No permit was issued, and if it had been, it

would have conferred no vested right, nor would it have created an estoppel."

In the mandamus case of *County Comm'rs v. Ward*, 186 Md. 830, 340, 46 A.2d 684 (1946), the Court held:

The Board ..., as an administrative body, was bound to follow the regulations it adopted, in the exercise of ... delegated legislative power. The fact that it might have rezoned ... does not alter its obligation to adhere to existing regulations.

In the case of *Lipsitz v. Parr*, 164 Md. 222, 164 A. 743 (1933), a case seeking injunctive relief by way of a restraining order, a city officer mistakenly issued a building permit for an ice factory when the statute prohibited ice factories. The Court there held:

A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law.... [T]he ordinance forbade the officials ... to grant the permit which the plaintiff asked and obtained....

... [I]t was therefore unlawful for the officers ... to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued ... does not ... prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality.... Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.

So, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act ... it is not estopped by the unauthorized or wrongful act of its officer ... in issuing a permit that is forbidden by the explicit terms of an ordinance.... *Valentine v. Rds. Di-*

our case of Offen v. County Council, 96 Md.App. 526, 625 A.2d 424 (1993), *rev'd in part*, 334 Md. 499, 639 A.2d 1070 (1994).

9. The applicability of the "doctrine of zoning estoppel" has still not been accepted (or rejected) by the Court of Appeals in spite of the opportunity presenting itself to that Court as recently as

Cite as 651 A.2d 424 (Md.App. 1995)

rectors, 146 Md. 199, 206 [126 A. 147] [(1924)]. . . . [Citations omitted, emphasis added.]

164 Md. at 227-28, 164 A. 743.

The Court cited *Lipsitz in Inlet Associates v. Assateague House Condominium Assoc.*, 313 Md. 413, 545 A.2d 1296 (1988), a case seeking specific performance and injunctive relief, and also cited *City of Hagerstown v. Long Meadow Shopping Center*, 264 Md. 481, 287 A.2d 242 (1972), a case of a timely appeal of the denial of a building permit. In *Inlet Associates*, the Court opined that "[c]onsequently, [e]veryone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority." 313 Md. at 437, 545 A.2d 1296. The Court added: "[T]he doctrine of equitable estoppel 'cannot be . . . invoked to defeat the . . . enforcement of . . . ordinances, because of an error or mistake committed by one of its officers . . . which has been relied on by the third party to his detriment.'" *Id.*

[4] Accordingly, it appears clear that the mistake of a county official cannot be the "practical difficulty" unique to the subject property required in order to authorize the grant of the variance sought and obtained by Ward.

The authorities elsewhere are in accord.

The master also erred in finding that unnecessary hardship resulted from the plaintiffs' reliance upon representations by the selectmen. This finding disregards the principal that hardship relates to the special character of the *land*, not to the circumstances of the *owner*.

Richardson, 455 A.2d at 1062.

[R]elator argues the Board should be estopped from denying the height variance because a city building inspector visited the premises several times and observed the construction taking place but made no complaint. . . .

In any case there is no authority on the part of a building inspector to grant a variance. . . .

Katz v. Board of Zoning Adjustments, 232 So.2d 546, 548 (La.App. 4th Cir.1970). See also *Klanke v. Zoning Bd. of Adjustment*, 83 Pa.Cmwlth. 441, 477 A.2d 907, 909 (1984), and *Walkingstick*, *supra*; *Xanthos*, *supra*; and *St. Clair*, *supra*.

Resolution

We resolve here only the issue of the granting of the variance sought and applied for by Ward.

[5] There was no evidence submitted to the Board that the subject site was in any way peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impact upon neighboring properties. In essence, the impact would be the same. The first step of the variance process was thus not met. Had there been evidence before the Board indicating that the subject property was peculiar or unusual and, thus, disproportionately affected by the height restriction, then we might have been able to conclude that the Board was correct. There was, however, no such evidence presented. Therefore, the Board's granting of the variance was arbitrary and illegal.

It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper. We shall reverse.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEE.



ly, and baldly, informed Judge Cahill that he had "expected for Ms. Ferguson to be in court" without proffering any reason why he had the expectation.

In *Whack v. State*, 94 Md.App. 107, 117-19, 615 A.2d 1226 (1992), *cert. denied*, 330 Md. 155, 622 A.2d 1196 (1993), we opined:

We begin with the basic proposition, recently reiterated in *Burgess v. State*, 89 Md.App. 522, 598 A.2d 830 (1991), *cert. denied*, 325 Md. 619, 602 A.2d 710 (1992), that "[r]ulings on requests for continuances are within the sound discretion of the judge and will not be disturbed on appeal absent an abuse of that discretion." 89 Md.App. at 534, 598 A.2d 830 (citing *Beachem v. State*, 71 Md.App. 39, 55, 523 A.2d 1033 (1987)). In *Wright v. State*, 70 Md.App. 616, 522 A.2d 401 (1987), we held

To show such an abuse of discretion, the party who requests the continuance must show:

"(1) that he had a reasonable expectation of securing the evidence of the absent witness or witnesses within some reasonable time; (2) that the evidence was competent and material, and he believed that the case could not be fairly tried without it; and (3) that he had made diligent and proper efforts to secure the evidence."

First, Whack failed to demonstrate that he had a reasonable expectation of securing the evidence of the absent witness within some reasonable time.... Whack did not state that he knew or had reason to know of Sampson's whereabouts on the date of the suppression hearing, nor did Whack state that he knew or had reason to know the reason for Sampson's absence. Thus, the bald assertion that bringing Sampson to court would be a "simple" task for a sheriff's deputy, is insufficient to produce the requisite reasonable expectation that Whack could secure Sampson's testimony within a reasonable time.

Finally, Whack failed to demonstrate of record that he made diligent and proper efforts to secure Sampson's testimony.... [T]he record does not reflect that ...

Whack ... made even the slightest attempt to call, locate, or contact Sampson during that hiatus. Whack's request for the court to "initiate judicial compulsory process," while relevant, fails under the circumstances of this case to demonstrate or establish the requisite diligence necessary to reverse the trial court.

Appellant, despite being afforded an opportunity to do so, failed to even proffer the first and third prong of the requirements reiterated in *Whack*, i.e., (1) that he had a reasonable expectation of securing the witness within a reasonable time; and (2) that he had been diligent in his efforts to obtain the presence of Ms. Ferguson.

Neither Judge Howe nor Judge Cahill erred.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.



103 Md.App. 324

**CHESTER HAVEN BEACH
PARTNERSHIP**

v.

**BOARD OF APPEALS FOR QUEEN
ANNE'S COUNTY.**

No. 794, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Feb. 9, 1995.

Property owner sought review of decision of County Board of Appeals denying requests for conditional use and for several variances in order to construct clustered units in residential area. The Circuit Court, Queen Anne's County, J. Owen Wise, J., affirmed, and property owner appealed. The Court of Special Appeals, Cathell, J., held that: (1) offer to build below density, if conditional use acceptable to environmental regulators is granted, does not satisfy require-

ment of variance law that land itself be inherently unique; (2) property owner's failure to produce evidence meeting essential elements required for obtaining variances in first instance supported denial of variances; and (3) absence of existing houses on property to which proposed cluster units could be compared did not create "unique" circumstance which would justify granting variance.

Affirmed.

1. Zoning and Planning §503

Offer to build below density, if conditional use acceptable to environmental regulators changing character of use of property is granted, does not satisfy requirement of variance law that land itself be inherently unique and different from remainder of land in area.

2. Zoning and Planning §503

County board of appeals acted appropriately in denying property owner's requests for variances to allow "clustering" in planned residential development absent any evidence, other than nonexpert opinion, that property was "unique" as essential to granting requested variances; fact that property owner could not do what he wished to do with property did not make it "unique."

3. Zoning and Planning §503

Fact that property on which clustering of housing units was proposed had no existing houses to which to compare proposed cluster units did not make property "unique" as necessary to grant variance.

See publication Words and Phrases for other judicial constructions and definitions.

4. Zoning and Planning §503

In determining appropriateness of area variance, court considers whether subject property is so inherently unique that impact of ordinance on property would be disproportionate when compared to other lands in district.

5. Zoning and Planning §382

Where property owner had not formally requested variance, zoning authority could not comply with specific conditions with which ordinance required compliance before

grant of conditional use could be made, even if those conditions could legally be avoided by variance.

6. Zoning and Planning §14

It was not legislative intention in passing state or local critical area legislation that zoning variance procedures be prostituted in order to alleviate harshness of environmental regulation, and, thus, staff of area commission considering conditional use request should not recommend allowing construction despite apparent conflict between environmental regulations and zoning regulations.

7. Zoning and Planning §486

Until appropriate legislative bodies make consideration of appropriate reasons for granting of variance, zoning entities lack administrative authority to broaden, by ad hoc administrative acts, power they possess to grant variances.

8. Zoning and Planning §493, 503

In area of variance issues, stringent unnecessary hardship standard applies, while, for use variances, seemingly even more stringent extraordinary hardship standard applies.

Howard L. Alderman, Jr. (Julius W. Lichter and Levin & Gann, P.A., on the brief) Towson, for appellant.

No brief or appearance by appellee.

Argued before CATHELL, HARRELL and MURPHY, JJ.

CATHELL, Judge.

Appellant, Chester Haven Beach Partnership, appeals a judgment of the Circuit Court for Queen Anne's County (Wise, J.), affirming the denial by appellee, the Queen Anne's County Board of Appeals (Board), of appellant's requests for a conditional use and for several variances. Appellant presents three issues:

I. Whether the Board of Appeals may deny a request for (i) a variance and (ii) a conditional use approval, both under the Queen Anne's County Zoning Ordinance, without delineating or applying any deci-

sional standard, and even though Appellant presented uncontroverted testimony and evidence to support all statutory prerequisites with no countervailing evidence presented.

II. Whether the Board of Appeals may interpret § 5000 of the Queen Anne's County Critical Area Ordinance in a manner at odds with the intent of the provision as manifested by the plain meaning of the ordinance, the testimony of a drafter of part of the provision from the Office of Planning and Zoning and the testimony of Appellant's expert.

III. Whether the Board's finding, that the Appellant had not satisfied its burden of proving that it was the owner of land subdivided and recorded as of 1959 was arbitrary, capricious and illegal in light of the evidence presented.

The Facts

As this case was presented to the Board, much of the information submitted on behalf of appellant was by way of an opening statement by appellant's counsel. In his opening statement, counsel gave a history of his knowledge of certain land planning legislative processes in Queen Anne's County and then informed the Board, while still in opening statement, of some of the history of the property, including a statement that the property at issue was subject to a prior recorded plat. Counsel then introduced (apparently in evidence) certain deeds in the chain of title to the property. He then asked to introduce a memorandum of arguments applicant desired to present in respect to the application, stating: "[T]his will be my memorandum as far as the legal authority ... this has nothing to do with testimony."

The Board then introduced, as applicant's exhibits, a copy of the sectional zoning map and a letter from a Mr. Nickerson, Director of Environment Health Services. The letter, on Health Department stationery contained the following language: "There are no objections to this proposal by the 'Approving Authority' if the project is served by public water and public sewer." The Board, with the concurrence of appellant's counsel, then introduced a letter from the State Highway

Administration, Engineering Access Permits Division, stating that it similarly had no objection, "as there are no State highways involved." Also introduced was the note of the staff of the Chesapeake Bay Critical Area Commission, stating that "[t]here are no comments at this time."

Counsel, resuming his opening statement, then informed the Board that the developing coordinator for the partnership might be called upon to testify. Counsel then described the partnership to the Board and counsel's past and present relationship to that partnership and its various partners. He then told the Board how the partnership operated.

Until this point, other than the exhibits offered, nothing was in evidence. Counsel's opening comments, for the most part, lacked relevance in respect to the issues now asserted on appeal. Thereafter, counsel called as a witness Mr. Michael Whitehill, the branch manager of McCrone, Inc., engineers, planners, and surveyors for the project. Mr. Whitehill described, *inter alia*, the type of subdivision sought to be established and the history of percolation tests. A letter dated June 7, 1976, was introduced through him, informing the owners of the property of serious percolation problems and noting therein that "even though this is a subdivision of record in Queen Anne's County, each application for a septic tank permit must be evaluated on its own merit." Mr. Whitehill then discussed the new developmental planning process, *i.e.*, from an older subdivision plan to the one then being submitted.

Appellant attempted to assert at oral argument that the previous recordation of a subdivision on the subject site prior to the enactment of zoning is what made this property unique for variance purposes. This argument, as we shall explain, is proffered for the first time on appeal.

Initially, we note that appellant's application stated:

Conditional use approval is sought to permit planned residential development in the existing NC-15 zone for Section 7203E of Q.A. Co. zoning ordinance and a variance from Section 7203E condition 1 is sought

to permit more than six (6) units per "cluster" and delete conversion density percentages as being uniquely inapplicable.

No assertion was made as to any denial by zoning authorities of the claimed grandfathered density. Rather, appellant merely submitted a request to vary the percentage conversion in the code relating to planned and/or clustered development. This does not translate into any uniqueness caused by the inherent character of the property or the overall density requirement relevant thereto. In fact, as far as we can discern from the record in this case, for zoning purposes, the property, though perhaps non-conforming, has, through grandfathering, retained its density and single family lot status, i.e., an 186 lot subdivision for detached single family units.

Mr. Whitehill testified before the agency that:

These were single family lots that are below the 15,000 square feet that is now called for in the current zoning.... At that time, an attempt was made in 1976 to have some percolation tests run on these lots.... [T]here were some problems with some of the areas.... At that time ... it was recommended ... that they wait for public sewer....

... This project at one time was intended to be an adjunct type community [adjunct to White's Heritage Continuing Care Community] which would be [a] retirement type of a project without the continuing care. They [the developers] have since changed that.... In the beginning of 1985 McCrone, Inc. did a survey ... with the intent to come up with a new development plan that would offer an alternative to this subdivision ... in hopes of taking the existing subdivision and replacing it with a planned type of housing style as the new zoning was brought into place. The idea ... was to ... hopefully get a limited development area criteria for the overall property and ... undoing the undo-able, which is a 1959 plat ... and replace[] it with a new zoning such as suburban estate zoning which would have allowed the planned housing styles we seek today by

virtue of conditional use.... [S]uburban estate was inapplicable to a recorded subdivision. They couldn't un-record the subdivision ... because they would not have only lost the grandfathering ... they would have ... to start over.... Professor Lichter here has wrote many letters ... trying to get that LDA designation on the property, and [it] represents one of his few failures.... [I]t was suggested ... that ... we could combine lots ... and go back and reperk the lots. So we made an application.... That was an 88 lot combination plan dated 5/16/89 which was withdrawn. I hate to lose and so I withdraw these when things are going south on me in the middle of the operation....

... Since that time [1976] we have been making continuous applications to the County ... to amend this property into the master water and sewer plan so we could apply for sewer for the original lots. Then the nasty, the critical areas designation of RCA ... [it] did grandfather single family lots which brings us up to our third application ... for ... retirement community rental apartments.... We submitted a concept plan ... that would take this grandfathered density of 186 single family units and convert it to a planned housing style.... We applied to the Planning Commission for approval ... and ... there was a glitch in the new critical area ordinance.... So this plan ... was withdrawn....

... [T]he County proceeded with the rewording of that so that Section 5000 Critical Area Ordinance would be amended to include the other housing styles besides the single family. The subject of tonight's hearing, now we have moved through nearly a decade of shenanigans.

Applicant's Exhibit No. 11 is the biggy. Our application ... that we were forced to withdraw was basically subject to the conditional use.... Section 7203E. refers to

... the ... cluster.... [1] The first condition ... asks that the cluster and planned development shall be scattered within surrounding single family homes. These ... shall not consist of more than 6 units per cluster, nor more than 80% of the dwelling units in any block. This is the section from which we are seeking a variance.... [F]rom the Critical Areas perspective, ... we are only disturbing 7 acres of land.... In order to do this, ... we ... requested a shore buffer reduction that was granted in a unique fashion.... So that anything we granted here would permit the development to be out where the ground is more suitable, which is higher land toward the water, but we would expand the shore buffer for the entire balance of the property....

... The requirement of the RCA ... ties us down to 15% impervious areas in the RCA.... [T]he impervious area that we are creating is half of that which is allowed by the Critical Areas RCA designation. [Emphasis added.]

[1] At that point, Mr. Whitehill testified as to various technical aspects of the project and then presented testimony that we shall discuss elsewhere in our opinion. His testimony as to the recorded subdivision plat was merely by way of giving a historical perspective of the land and the various projects proposed therefor. No claim was made below that these previous lots were in any way unique. Moreover, there is no indication that the density he claims was grandfathered has been denied him and, even if the authorities have challenged his claim as to grandfathered density—and we find no indication that they have—appellant never requested a variance from any overall density requirement. All of its variance requests concern what it perceives to be necessary to meet the requirements of a change in its development plan from single family to group or cluster living necessitated by the current demand, not of zoning codes, but of environmental regulations (and economic conditions), espe-

1. A fair reading of the ordinance indicates that cluster units were originally perceived as low income housing. The conditions as to number

cially the requirements of complying with the Chesapeake Bay Critical Area regulations. We are not unsympathetic to the plight of a property owner caught between local zoning codes and environmental regulations. We later herein suggest the correct method of addressing this issue. But, an offer to build below density, if a conditional use acceptable to environmental regulators changing the character of the use of the property is granted, does not satisfy the requirement of variance law that the land itself be inherently unique and different from the remainder of the land in the area.

We now continue our discussion of what did occur below. Applicant's Exhibit No. 11 was then introduced with, as we have said, the comment that "No. 11 is the biggy." It is a surveyor's or planner's (unrecorded) plan of the proposed project. Thereafter, Mr. Whitehill testified, initially and apparently referring to the requirements for the granting of conditional uses under the ordinance:

The first condition of that section asks that the cluster and planned development shall be scattered within surrounding single family homes. These planned developments shall not consist of more than 6 units per cluster, nor more than 80% of the dwelling units in any block.

Mr. Whitehill then noted:

This is the section from which we are seeking a variance.

He later continued, in relevant part:

So these units as you are seeing them here are essentially clustered together. These are a planned housing style, apartments are a planned housing style, according to the zoning ordinance in Section 5105.J., that we would have to provide in order to meet the general zoning criteria for apartments, we would have to provide a lot, if we were to put all these on one lot, that lot would only have to be 6.83 acres. But we actually have a much larger lot than that so we are actually conforming in excess of the minimum lot size that would be required under the zoning ordinance. This plan complies as a condominium project,

and percentages appear to have been intended to limit the amount of such housing in any given neighborhood.

this plan would comply with the requirements of virtually every planned housing style [and] ... as a rental project, it ... will all be privately owned and privately maintained....

Mr. Whitehill then introduced certain exhibits, not relevant to the issues on this appeal, stating that he did so "so we can go into juicier topics which are the variance and conditional use."

Then, continuing his comments, Whitehill noted:

Relative to the conditional use ... this is where we run into the request for the variance [but then, addressing the conditional use requirements]. If we were doing this in Cloverfields or Harbor View [other neighborhoods] ... where there are surrounding houses that have already been built and there is an established architectural texture ... then this special condition of the conditional use would certainly be applicable. At that point you are starting to say that if you take 30% of the dwelling units ... or 20% ... unfortunately, within this development itself, ... there is no architectural, there is nothing there ... so we find it difficult to apply that particular standard. In Condition 2 ... we certainly do comply with. Number 3, ... [s]ame sort of problem, there is nothing ... that we can compare this to.... [S]o we are actually less dense than this would permit. And that the cluster lots shall follow the same standards as village houses, we are not proposing cluster lots.... So what we have is kind of an interesting situation.... What we find is, by not developing 102 acres, by developing only ... 7 acres ... this is certainly more environmentally sound.... The single family issue has been resolved so that the grandfathering would be allowed to take those single family lots and convert them to the multifamily and planned housing styles.... [D]epending on the outcome of

the conditional use, [we] would like to go in and apply for our sewer....

The following exchange then occurred between Mr. Whitehill and applicant's counsel:

[APPLICANT'S COUNSEL]: ... With regard to the requirements for variances ..., can you advise the Board, in your opinion professionally, whether a literal enforcement of the ordinance would result in unnecessary hardship as a result of the specified conditions[?]^[2]

WHITEHILL: Yes, it would, because we have nothing to compare, we have nothing to derive both the housing style ... from, and we have nothing on the basis of the existing architecture ... in this particular instance.

[APPLICANT'S COUNSEL]: Are the conditions that are present on the property peculiar to this property[?]

WHITEHILL: They are very unique to this particular piece of property.

[APPLICANT'S COUNSEL]: Can you tell what they are[?]

WHITEHILL: The uniqueness is ... that this recorded subdivision since 1955 has no houses built in it to establish community character.^[3]

[APPLICANT'S COUNSEL]: Can you tell us whether any of the conditions that are present are the result of any action taken by the petitioner....

WHITEHILL: No....

Thereafter, there was some testimony as to the engineering-aspects of the project not relevant to the appellate issues at bar. The applicant then rested. There were no protestants. Planning and zoning staff then testified in support of the project, stating: "Staff would support the conditional use approval, and we don't have any objection at all to the variance request."

The Board, in its Finding and Decision, noted, first of all, that the County had adopted a new comprehensive plan (zoning

2. Mr. Whitehill was not explicitly offered or accepted as an expert on any subject matter, though he purported to have testified before the Board "on a number of occasions over the last 20 years" and did respond to a number of opinion solicitation questions.

3. Here, particularly, Mr. Whitehill confuses the standard for conditional uses and variances. The existence *vel non* of houses, while perhaps relevant to conditional uses, is not normally relevant to variances; uniqueness of a particular property is relevant to variances.

map) and zoning ordinance in 1987, which zoned the subject property NC-15, radically departing from the County's previous ordinance; that the County adopted its Chesapeake Bay Critical Area Program in 1988 and its Critical Area Ordinance in 1989; and that the Critical Area maps delineated the subject property as a Resource Conservation Area. Thereafter, an amendment was adopted to the Critical Area Ordinance that provided for a new Section 5000 c modifying density requirements and, in effect, grandfathering in the previous density provisions and resulting in a density of 186 units for the subject property. The Board noted, however, that, in order to avail itself of the 186-unit density, applicant, in addition to satisfying critical area concerns and other environmental matters, or because of those requirements, had to obtain a conditional use to permit clustering.

The conditional use provisions limited the clustering of units to *six units per cluster*, subjected the perimeter of the clustered units to the setbacks of the underlying zoning district, required the dwelling units to be in keeping with the architectural character of the area, and *required the density to be determined in relation to the minimum lot size for the cluster*. All of these conditions had to be met in order for the conditional use to be permitted.

The Board noted that, in addition to the conditional use—or really, in order to qualify to apply for the conditional use—the applicants had to get a variance from the six unit per cluster condition and from the provisions of the density percentages, and additional variances from the conditions for which the ordinance required satisfaction in order to be entitled to a conditional use. In other words, the Board perceived, correctly, that the subject project could not meet the requirements the ordinance established for the granting of the conditional use. Therefore, the applicants were attempting to eliminate the conditions by obtaining variances therefrom.

The attempt to follow this procedure creates fundamental and conceptional problems with the generally accepted proposition that, if the express conditions necessary to obtain a conditional use are met, it is a permitted

use because the legislative body has made that policy decision. Does the legislative intent that the use be permitted remain if the conditions are not met but are eliminated by an administrative body granting a variance? Upon such an occurrence, the application for a conditional use becomes dependent upon the granting of the variances. Under those circumstances, the presumption that a conditional use is permitted may well fall by the wayside. The policy that establishes certain uses as permitted is predicated upon the satisfaction, not avoidance, of conditions. Conditions the legislative body attaches to the granting of a conditional use normally must be met in accordance with the statute—not avoided. In any event, even if such a procedure would pass muster, if the variance process fails, the entire application fails.

The Board initially addressed (apparently, presuming for the purposes of its discussion a project in which the variances had been approved) whether the proposed development could meet, even then, the more general requirements of a conditional use. It answered this in the negative, citing the following findings that we perceive to be supported by the evidence:

These districts [Neighborhood Conservation Districts] are intended to preserve the character of the existing neighborhoods.... [T]his area is dominated by single family residential structures and farmland. [T]he ... Ordinance clearly intend[ed] that the character of the existing neighborhood was to be preserved.... Clearly, the Applicant envisions an apartment complex in an area where apartments do not exist.

The Board then noted that which we have indicated above, "[a]pplicant not only wants the Board to grant a conditional use, but also to totally ignore the express conditions attached to that conditional use [i.e., combining the application with a request for a variance in order to remove the express conditions]." It then found that such a conditional use would permit the area to be dominated by the proposed apartment complex, despite the fact that apartments do not now exist in the neighborhood. Thereafter, the Board addressed other general conditions, the consid-

eration of which is required in cases of requests for conditional uses, and extensively discussed the testimony and evidence in regards to, *inter alia*, traffic, harmony, purpose and goals of the ordinance.

[2] We do not choose to review each challenged evidential inference made by the Board. The Board properly denied the variances, penultimately, because of the abject failure of appellant to produce evidence (as opposed to non-expert opinion) meeting the essential elements required for obtaining variances in the first instance. We hold that the Board's findings and decisions arising out of its consideration of the general and special conditions, and Judge Wise's well-considered opinion affirming the Board's decision, were correct.

[3] The only evidence proffered in support of showing the property's "uniqueness," a showing essential to the grant of the requested variances, was Mr. Whitehill's testimony that it was unique. His testimony in this regard can be paraphrased as "it is unique because the property owner can't do what he wants to do," *i.e.*, that the proposed property was unique because it had no existing houses thereon to which the proposed cluster units could be compared. That position has been consistently rejected as a reason to grant variances by the appellate courts of this and most foreign jurisdictions.⁴

[4] We recently discussed the issue of the grants and denials of variances in our case of *Cromwell v. Ward*, 102 Md.App. 691, 651 A.2d 424 (1995). We there described the initial and essential first step in the determination of the appropriateness of an area variance:⁵ the subject property must be so inherently unique that the ordinance's impact thereon would be disproportionate when compared to other lands in the district. *See, generally*, our decision in *Cromwell* for a full

and complete discourse on the subject of variance law.

In the case *sub judice*, not one minute speck of evidence was produced indicating that this property is inherently unique as compared to other properties in the area or that the zoning ordinance's impact on other properties in the neighborhood, area, or district was in any way different than its impact on the subject property. The evidence was to the contrary. It may be that other similar properties in the vicinity are not affected by the stringent requirements of critical area legislation, and it may be, though we do not now so hold, that, if only one property in a neighborhood is subject to stringent environmental restrictions, that property may be unique for variance purposes. That, however, is an issue for another case, or for the legislature, or regulators. In the case *sub judice*, there is no factual predicate therefor.

We said in *Cromwell*:

[T]he variance process ... is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is—in and of itself—unique and unusual in a manner different from the nature of surrounding properties.... Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied....

Opinion, at 694, 651 A.2d at 426. We concluded in *Cromwell*:

There was no evidence submitted to the Board that the subject site was in any way peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's ... restriction's impact upon the subject property would be different than the restriction's impact upon other neighboring properties. In essence, the impact would be the same.

4. The fact that nothing existed on nearby properties to which a comparison of the proposed cluster units can be made is proof that the instant property in its unimproved state is, for variance purposes, similar, not dissimilar or unique in respect to the neighboring properties. In any event, that was only one of the mandatory conditions that had to be met in order for a conditional use to be granted.

5. The variances requested were specific area variances needed in order to remove conditions statutorily attached to the conditional use sought. Had appellant attempted to get a variance (as opposed to a conditional use) in order to develop the whole project as proposed, the change from single family to retirement apartments, would have also involved a "use" variance.

The first step of the variance process was thus not met.

Opinion, at 726, 651 A.2d at 441.

There was little, if any, evidence presented below as to differences, if any, between other properties in the neighborhood (or area or district) and the subject property. Presumably, the provisions of the zoning ordinance would similarly impact on such nearby properties. We note, as we did in *Cromwell*, that the variance that is desired (and the difficulties that would exist if it is not granted) cannot be the source of the first prong of the variance process—an inherent uniqueness of the subject property not shared by surrounding properties.

Opinion, at 695, 651 A.2d at 426.

[5] In the case *sub judice*, unlike the zoning authorities in the *Cromwell* case, the zoning entity—the Board of Appeals—displayed an understanding of the variance process and applied that understanding as they were required to do, denying the variance. That denial was legally correct. Given the failure of the request for a variance, it was impossible for appellants to comply with the specific conditions with which the ordinance required compliance before a grant of a conditional use could be made, even if such conditions could legally be avoided by variance. Thus, in addition to failing to meet the general conditions necessary for the approval of a conditional use, appellants also failed to meet the specific conditions. The Board did not err; its actions were not arbitrary and capricious. It correctly rejected the applications for the conditional use and the variances.

[6, 7] Before concluding, we have two observations. First, the professional staff abdicated its responsibility in its role in respect to conditional uses and variances. It recommended favorably that, which, if granted, would have been clearly illegal and arbitrary. We can understand, however, that, in areas where severe environmental regulation, i.e., critical area regulations, overlay zoning regulations, the two statutory schemes can be in irreconcilable conflict. What is permitted by one scheme may be prohibited by the other. When that occurs—and it may well have

occurred here—we perceive that there can exist extreme pressure within the staff to attempt to reconcile the irreconcilable. While the desire to rectify the problem is understandable, planning staff should not put itself in a position, or allow itself to become so positioned, of recommending that which the zoning code prohibits. The problems that may exist in the interplay between environmental and zoning regulations may well call for legislative attention. It is not, however, the function of staff to make such policy decisions in the absence of legislative action. We do not perceive that it was the legislative intention in passing the State or local critical area legislation that zoning variance procedures would be prostituted in order to alleviate the harshness of environmental regulation. If that is the intention of the legislative entities, they have the power to express clearly that intention. It may well be that the legislature should direct its attention to amending the variance provisions of Art. 66B to include the effect of subjection to environmental regulations as a unique quality of property so as to enable local jurisdictions to provide by ordinance for such consideration. It may be that charter counties need to consider amending their ordinances to allow environmental regulatory impact to be considered as an appropriate reason for the granting of a variance. Until the appropriate legislative bodies make that consideration, zoning entities lack the administrative authority to broaden, by *ad hoc* administrative acts, the power they possess to grant variances.

Second, we wish to note that Judge Wiece, in his opinion and affirmance of the Board's decision, displayed a complete understanding of the nature of the zoning variance and conditional use law and procedure. His decision was correct.

[8] We conclude by noting that appellant further asserts that, because the Queen Anne's County's ordinance contains both the unnecessary hardship standard and an extraordinary hardship standard, the County must have intended to equate unnecessary hardship to practical difficulty. We do not agree. The only standards in Queen Anne's County are those that have been stated

They do not include practical difficulty. Thus, even in area variance issues, the stringent unnecessary hardship standard applies. In use variances (if same are even permitted under the Queen Anne's County ordinance), the seemingly even more stringent extraordinary hardship would apply. See *Cromwell*, *supra*. In that respect, the Queen Anne's County ordinance is a tough ordinance.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.



103 Md.App. 341

Kenneth GOODWICH

v.

**The SINAI HOSPITAL OF
BALTIMORE, INC.**

No. 797, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Feb. 9, 1995.

Reconsideration Denied March 6, 1995.

Licensed physician sued hospital for breach of contract, intentional interference with contractual relations, and tortious interference with prospective economic benefit, after restrictions were placed on his practice privileges at hospital. The Circuit Court, Baltimore City, Clifton J. Gordy, Jr., J., entered summary judgment for hospital on grounds of statutory immunity. Physician appealed. The Court of Special Appeals, Wilner, C.J., held that: (1) hospital acted reasonably, as required for immunity under federal Health Care Quality Improvement Act of 1986 (HCQIA), and (2) because hospital was immune from damages under federal law, it was unnecessary to discuss immunity provided by state statutes.

Affirmed.

1. Hospitals ◀6

Purpose of federal HCQIA is to provide for effective peer review and interstate monitoring of incompetent physicians and to grant qualified immunity from damages for those who participate in peer review activities. Health Care Quality Improvement Act of 1986, § 412(a), 42 U.S.C.A. § 11112(a).

2. Hospitals ◀6

For purposes of physician professional review committee immunity under HCQIA, requirement of reasonableness is intended to be objective standard. Health Care Quality Improvement Act of 1986, § 412(a), 42 U.S.C.A. § 11112(a).

3. Hospitals ◀6

In order to overcome professional review committee's immunity under HCQIA for decision with respect to physician's hospital privileges, it was incumbent upon physician to submit enough evidence to permit jury to conclude that at least one of four elements for statutory immunity was not satisfied. Health Care Quality Improvement Act of 1986, § 412(a), 42 U.S.C.A. § 11112(a).

4. Hospitals ◀6

Documentation of questionable patient management and continual failure to comply with agreement to obtain second opinions, and evidence of five unresolved medical malpractice cases filed against physician, supported finding that hospital acted in reasonable belief that restriction of physician's privileges was in furtherance of quality health care, as required for immunity under HCQIA, despite physician's contention that hospital's actions were motivated by combination of personal feelings toward him and misplaced concern about potential embarrassment in litigation. Health Care Quality Improvement Act of 1986, § 412(a), 42 U.S.C.A. § 11112(a).

5. Hospitals ◀6

Personal feelings are irrelevant to issue of physician professional review committee immunity under HCQIA; issue is not whether any physician at hospital acted with animus toward doctor against whom adverse action is taken, but whether another hospital, reviewing doctor's files under circumstances



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February 25, 1997
#6965

Baltimore County Board of Appeals
Robert Schuetz, Chairman
Old courthouse Room 49
400 Washington Avenue
Towson, Maryland 21204
ATTN: Kathy Bianco


RE: *Case No. 97-52 A In The Matter of Jake Rubenstein, Petitioner
(Petition for Variance Hearing Date March 26, 10:00 a.m.)*

Dear Chairman Schuetz:

Please enter my appearance on behalf of the Sudbrook Park, Inc. and individuals Jeffrey B. Smith, Len Frank, Richard Offenheimer, and Melanie Anson in the above captioned matter.

From the Board's Notice, there appears to be a number of other interested citizens and neighbors who are currently listed as receiving notification of the Board's proceeding. I would respectfully request that the Board continue to notify those individuals in regard to all future Board matters.

Very truly yours,


J. Carroll Holzer

JCH:alt
cc: Jeffrey Smith, et al.

CA\LETTERS\SCHUETZ9 LTR

10/

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January 23, 1997

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the matter of Jake Rubinstein
902 Windsor Road
2d Election; 3d Councilmanic
Hearing: March 26, 1997- 10:00 a.m.

Dear Sir:

The above matter is before you on Mr. Rubinstein's Petition for Variance which was denied by Commissioner Schmidt.

I am writing to you in the above matter as a resident of Sudbrook Park for 37 years. During these years I have been active as an Officer, Director, Committee member, Volunteer, attorney, and in every other way. I would like to help maintain our Community and its history. I currently serve as Chair of the Sudbrook Park Advisory Committee coordinating on Landmarks matters with the County's Landmark Commission. Sudbrook Park is a "village" like no other in Baltimore County, perhaps not even in the entire State.

I am well aware of the problems of Mr. Rubenstein and his tow truck at 902 Windsor Road., since I have to see it on my walks and rides thru the Park. It is one of our few ugly sights. We have been trying for more than a decade to get this owner to do something, to meet us halfway at least, in removing it from view. I personally made known to him the availability of garage space nearby; he apparently was not interested. His position was confrontational, combative, and "in your face." He has probably

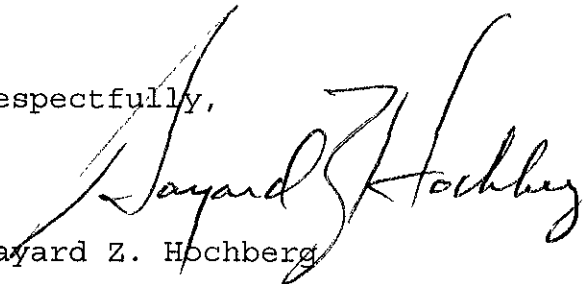
County Board of Appeals of Baltimore County
January 23, 1997
Page 2 of 2

been violating the law for years and now asks that his attitude be legitimized.

I cannot think of one good reason why his Request for Variance should be granted, and urge it be denied.

Thank you for considering this letter.

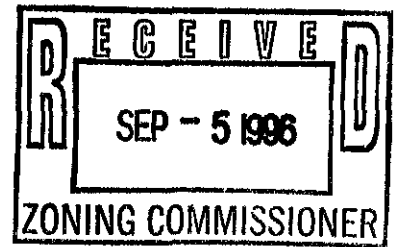
Respectfully,

A handwritten signature in cursive script, reading "Bayard Z. Hochberg". The signature is written in dark ink and is positioned to the right of the word "Respectfully,".

Bayard Z. Hochberg

BZH/dms

Sudbrook Park, Inc.



September 3, 1996

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number 97-52A (Item 45)
Petitioner: Jake Rubinstein

Dear Commissioner Schmidt,

This mailing contains the documents listed below; they are all relevant to our community's expressed opposition to the granting of the variance requested by Mr. Rubinstein. We shall be grateful for your review of these items.

Very truly yours,

Leonard H. Frank
CoPresident

(Note: Our organization's name was changed from Sudbrook Club, Inc. to Sudbrook Park, Inc. in February of 1996)

1. Letter to Commissioner Schmidt from Leonard Frank for the Board of Sudbrook Park, Inc.
2. Letter to Commissioner Schmidt from Jenny Lee Sataloff, a resident of Sudbrook Park.
3. Letter to Commissioner Schmidt from George H. Bowers, a resident of Sudbrook Park.
4. Letter to Commissioner Schmidt from Bayard Z. Hochberg, a resident of Sudbrook Park.
5. Letter to Commissioner Schmidt from Dottie Collins, a resident of Sudbrook Park.
6. Letter to Commissioner Schmidt from John Horsman, a resident of Sudbrook Park.
7. Minutes of The Sudbrook Club's Board Meeting of August 26, 1981 with a section on "Tow Truck." Mr. Rubinstein was present at this meeting.
8. Letter from the Board of the Sudbrook Club to Mr. Rubinstein, September 6, 1995.
9. Letter from the Board of the Sudbrook Club to Mr. Rubinstein, September 23, 1995.
10. Letter from the Board of the Sudbrook Club to Mr. Arnold Jablon, October 24, 1995.
11. Letter to Commissioner Schmidt from Richard Offenheimer, Resident
12. Letter to Commissioner Schmidt from Ellen Kahn Zager, Resident

Sudbrook Park, Inc.

September 1, 1996

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number 97-52-A (Item 45)
Petitioner: Jake Rubinstein

Dear Commissioner Schmidt,

Sudbrook Park, Inc. is the neighborhood association of the 500+ homes constituting Sudbrook Park, a residential community designed by Frederick Law Olmsted Sr. in 1889. A portion of Sudbrook Park is entered on the National Register of Historic Places and is designated a Baltimore County Landmark District. Mr. Rubinstein's property, incidentally, immediately borders the National Register section.

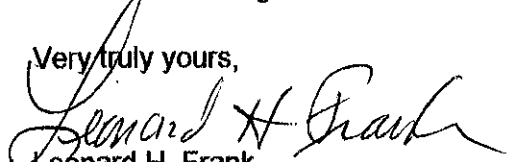
We oppose the request for a variance at 902 Windsor Road to "...permit a commercial vehicle of 15,000 pounds [to be] parked in the front yard..."

Accompanying this letter are copies of various correspondence on the specific subject at issue: *The continuing and flagrant parking and use of tow-trucks and, in recent years, of a Jerr-Dan "come-a-long" truck in the front yard driveway of the subject property, solely for commercial purposes.*

Over the years, residents of the community have complained to the Board about this flouting of Baltimore County zoning and other relevant laws which protect the integrity of residential communities. Despite periodic requests to Mr. Rubinstein that he arrange for his truck to be garaged or parked elsewhere he has persisted in the clear violation of these laws. Indeed, on a number of occasions his Jerr-Dan has been parked with vehicle(s) on its deck.

We do, most respectfully, urge that the request for a variance in this regard be denied.

Very truly yours,


Leonard H. Frank
CoPresident,
Sudbrook Park, Inc.

cc: Jeffrey B. Smith, Civic Vice President

From the Desk of :

Richard L. Ottenheimer

705 Carysbrook Road Baltimore, Maryland 21208-4748
(410) 486-2010

September 5, 1996

Case Number 97-52-A (Item 45)
902 Windsor Road
Owner: Jake Rubinstein

Commissioner Lawrence Schmidt
Baltimore County
Department of Permits and
Development Management

Dear Commissioner Schmidt:

I must oppose Mr. Rubinstein's variance request because I feel that the Jerr Dan tow truck is an eye soar and has no place in a residential community.

Prior to the neighborhood association reporting the zoning violation last year, Mr. Rubinstein regularly parked his Jerr Dan tow truck in his driveway with a vehicle on top and usually one or two vehicles parked on his front lawn. Soon after Mr. Rubinstein received a copy of the complaint sent to the County Zoning Office, the cars on the front lawn disappeared and he began parking the Jerr Dan on the street. I fear if given a variance he would resume using his front lawn for commercial purposes as a parking lot for towed vehicles.


On occasion, the Jerr Dan tow truck has pulled a flatbed trailer to carry an additional two or three vehicles, which would never fit on Mr. Rubinstein's driveway, or even across his front yard. The combined length of the Jerr Dan and trailer was so long he had to park it around the corner on Carysbrook Road.

Mr. Rubinstein has posted the official zoning request sign, but has since attached a second handwritten sign saying he just wants to continue parking his truck in his yard as he has done for the past 17 years. This sign is an admission to violating Baltimore County zoning regulations. My understanding is when the neighborhood association took action in the past, he has alternated between parking on the street when reported to zoning, and in his driveway when reported to the police for a traffic violation.

Sudbrook Park is a beautiful old residential community with large trees and *narrow* curvy streets. It is a Baltimore County Historic Landmarks District and is on The National Register of Historic Places. The tow truck has a negative impact on the the entire community because it detracts from the beauty and unique character of Sudbrook Park.

Please do not grant this variance.

Sincerely,


Richard L. Ottenheimer
Park Resident



September 4, 1996

Lawrence E. Schmidt
Zoning Commissioner
Office of Planning and Zoning
Room 112
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Variance **Case No. 97-52-A** Jake Rubenstein, petitioner

Dear Commissioner Schmidt:

I am a resident of Sudbrook Park and am writing to oppose the above referenced request for variance.

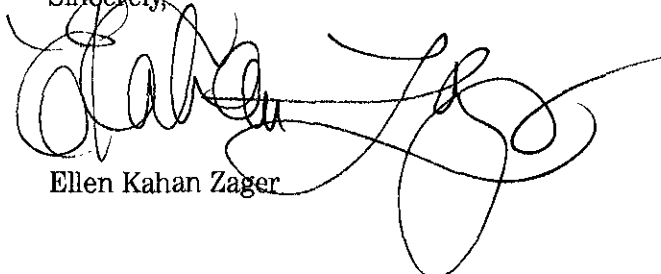
Our family has lived in Sudbrook Park for over 10 years and values the historic nature of the neighborhood. As a matter of fact, we own one of the original properties and have made an extraordinary financial investment in its restoration.

It is of utmost concern to us that Sudbrook maintain its unique character as a turn of the century residential community; a neighborhood of citizens who care about their community, its beauty, and its stability. If Mr. Rubenstein is allowed to park his commercial towing vehicle here it will pave the way for the possibility of others doing the same, endangering the very character many of us have spent many hours and many thousands of dollars trying to enhance and maintain.

While I do not deny Mr. Rubenstein the means for making a living, our beautiful residential neighborhood is not the place for his truck.

Thank you for your serious consideration of this issue.

Sincerely,

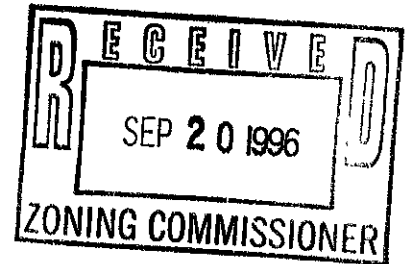


Ellen Kahan Zager

RECEIVED
SEP 11 1996

Tom Case

Mr. Lawrence Schmidt
Office of Planning and Zoning
Old Courthouse Room 112
400 Washington Ave.
Towson MD 21204



9/19/96

Dear Mr. Schmidt:

I write in reference to zoning case 97-52-A (Item 45) 902 Windsor Road
Petitioner: Jake Rubenstein.

Mr. Rubenstein requested a variance to continue to keep his commercial length flatbed tow truck (a car can be placed on top of it) in his driveway.

I have lived in Sudbrook Park for 10 years and I live down the block from the Petitioner. Ever since I have moved in, I have been cognizant of, and from time to time, have participated in efforts to document Mr. Rubenstein's zoning violation caused by parking his flatbed truck in front of his house or in his driveway. The organization to document the continuing violation was difficult, at best, and has taken many years of effort. Therefore, Mr. Rubenstein's contentions that he has parked his commercial vehicle in violation of zoning ordinances, for many years, is despite of his neighbors continued complaints to him personally and to the zoning office, and despite our efforts to provide proof of his consistent disregard of the law. So, although Mr. Rubenstein contends he has parked his truck there for many years, the neighbors have also complained for ten years and requested repeatedly that he desist, to no avail.

This truck, which is about as long as his house, is a blight on our historic residential neighborhood. It is huge, especially in relation to the very close density of homes on that block, and completely out of character in a residential neighborhood of beauty and serenity, old trees, and quiet streets.

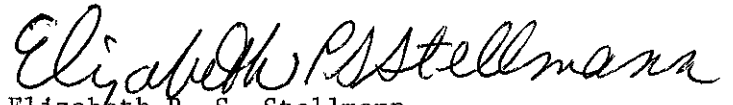
Directly across one-lane Windsor Road from the Petitioner, is the map boundary of the Sudbrook Park National Historic District (also a County Landmark). The obvious fear, is that if the Petitioner is allowed to continue such a flagrant abuse of the residential commercial vehicles ordinances, that other neighbors may do the same, and why should they not receive variances, as well? In fact, why should they even bother to ask for variances, if they perceive that because the Petitioner never asked for a variance, is the very reason he is now granted one on the basis of a long-standing violation?

*sent copy of
Order on
9/23/96 bjo*

Case 97-52 A (Item 45) 902 Windsor Road
Petitioner: JAKE Rubenstein

In order to preserve the residential quality of our neighborhood in particular, and older neighborhoods in general (a stated goal of the County's current administration), please deny the Petitioner his variance. In other words, "we finally got him , don't let him go".

Very truly yours,

A handwritten signature in cursive script, reading "Elizabeth P. S. Stellmann".

Elizabeth P. S. Stellmann
1008 Windsor Road
Balt. MD 21208

607 Sudbrook Road
Baltimore, Maryland
September 5, 1996

Deputy Zoning Commissioner
Timothy M. Kotroco
Room 112 Old Court House
400 Washington Avenue
Towson MD 21208

Re: Case #97-52-A (Item 45)
Petitioner: Jake Rubenstein
Hearing 9-6-96 at 9:00 A.M.

Dear Commissioner Kotroco:

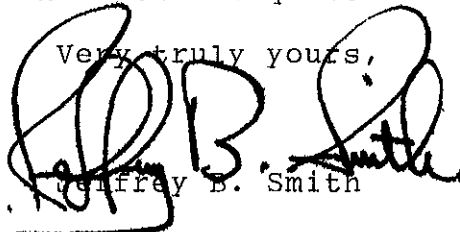
I must respectfully request that the petition for a variance in the above matter be denied.

The 15,000 pound truck parked at 902 Windsor Road, solely in the front yard, and used exclusively in a commercial venture to tow and/or haul motor vehicles, is in clear and flagrant violation of the applicable zoning laws and regulations. It is a detriment to the entire 500 plus homes in Sudbrook Park.

We have strived arduously to maintain this 1889 Olmsted community and the quality of life for our families living here. Sudbrook Park is on the National Register of Historic Places, is a Baltimore County Landmark District and is a Community Conservation District.

Thank you for your consideration of this request.

Very truly yours,


Jeffrey B. Smith

706 Cliveden Road
Baltimore, Md. 21208
September 5, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Bldg., Rm. 112
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Variance - Case No. 97-52-A (Jake Rubenstein,
Petitioner)

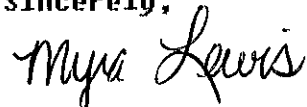
Dear Commissioner Schmidt:

I have been a resident of Sudbrook Park for fifteen years, and I am writing to express my opposition to the above named request for variance. Our neighborhood association and residents have worked very hard to maintain the beautiful historic and residential community that we are and have been for one hundred years.

The Petitioner should not be allowed to park a commercial vehicle, the Jerr-Dann tow truck in Sudbrook Park. If a variance were granted, it could set a precedent for the requesting and/or granting of other variances which would completely destroy the uniqueness of this community, one which is listed on the National Register of Historic Places and designated a Baltimore County Landmark District.

I urge you to consider what is in the best interests for Sudbrook Park and deny this request for variance. Thank you for allowing me to voice my opinion.

Sincerely,

A handwritten signature in cursive script that reads "Myra Lewis".

Myra Lewis

701 Cliveden Road
Baltimore, MD 21208
September 5, 1996

By fax: 887-2824

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse - Suite 112
400 Washington Avenue
Towson, MD 21204

Re: Petition for Variance - Case No. 97-52-A (Item 45)
(Jake Rubinstein, Petitioner)

Dear Commissioner Schmidt:

We are residents of Sudbrook Park and are writing to express our opposition to the variance requested by Mr. Rubinstein who lives at 902 Windsor Road. Sudbrook Park is an historic, residential community. Mr. Rubinstein's Jerr-Dann tow truck is not only illegal under zoning laws but is an eyesore. It is long past time that he find appropriate parking for it in a non-residential area.

Sudbrook Park has been buffeted by many intrusions over the years, from the subway to threatened new development. As an older area of Baltimore County and as part of a Community Conservation area, it is especially important to retain the very qualities that drew residents to Sudbrook Park in the first place. These include its history, its narrow curvilinear streets and its tranquil, park-setting -- in sum, its character as a *residential* area. If this variance is granted, it would most assuredly open the door to other such requests, thus destroying those aspects that make Sudbrook Park such a delightful place to live and raise children.

As citizens and taxpayers, we count on the zoning process to uphold the laws that have been passed to maintain the clear separation of prohibited commercial and residential uses. We urge you to deny the variance that Mr. Rubinstein is requesting.

Sincerely,

Karen + Steve Brown
Karen and Steve Brown

RECEIVED
SEP 11 1996

Re: Case Number 97-52-A (Item 45)
Petitioner: Jake Rubinstein

722 Howard Road
Baltimore, MD 21208
August 28, 1996

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Commissioner Schmidt,

I am extremely opposed to granting Mr. Rubinstein a variance to keep his tow truck parked in his driveway at 902 Windsor Road. Sudbrook Park is a historic residential community designed to blend the neighborhood with its natural surroundings. When Frederick Law Olmsted Sr. planned this area in 1889, he incorporated tree-lined curving streets with woodsy areas to create a park-like atmosphere. Our community wishes to preserve Olmsted's vision and a tow truck parked at a residence does not fit his image. I feel that granting this exemption would open the door for similar requests.

I strongly urge you to reject Mr. Rubinstein's petition for a variance.

Sincerely,


Dottie Collins

August 30, 1996

For Tim-
Hearing
on 9/6/96
JEB

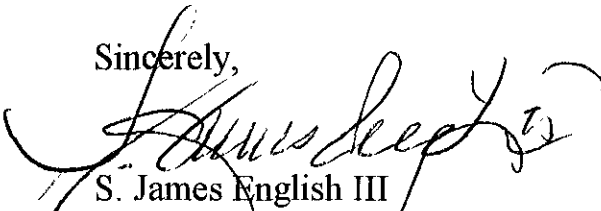
Mr. Lawrence E. Schmidt
Zoning Commission
Old Court House Building, Room 112
400 Washington Avenue
Towson, MD 21204


Dear Mr. Schmidt:

This letter is written to express our strong opposition to the zoning variance (97-52-A) for 902 Windsor Rd. The commercial Jerr-dann towing vehicle continues to be an eyesore and is noisy and disruptive.

As property owners in Sudbrook Park, my wife and I share the opinion that such a variance would be incompatible with the rural setting of our neighborhood as planned by Frederick Law Olmstead and would serve as an invitation to further commercial encroachment.

Sincerely,


S. James English III


Deborah C. English

518 Sudbrook Road
Baltimore, MD 21208
cc: Sudbrook Club President

612 Cliveden Road
Baltimore, Maryland 21208
October 24, 1995

Mr. Arnold Jablon, Director
Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Commercial Vehicles on Residential Property

Dear Mr. Jablon,

The Board of the Sudbrook Club, whose members are named below, wishes to report a zoning violation in our community. We take this action in behalf of residents who have enlisted our support in this matter.

The violation concerns the parking of a Jerr Dan flatbed truck in the driveway of the house located at 902 Windsor Road. This parking arrangement has been a practice for many years. On occasion, the vehicle is parked in the driveway with cargo loaded. However, the complaints we have received focus on the truck's parking location with/without a load.

We have been reluctant to precipitate legal action against Mr. Jacob Rubinstein, the owner of the truck and the residential property. But we have reached an impasse in that Mr. Rubinstein has not communicated to us alternative parking arrangements that will be consistent with zoning regulations. Copies of our recent letters to Mr. Rubinstein accompany this letter.

Your pursuit of this matter will be appreciated by our Board and by those members of our community who object to this seemingly permanent violation of the ordinance(s) which enforce separation between commercial and residential uses of property.

Very truly yours,

Leonard Frank
Co-President, The Sudbrook Club, Inc

cc: Mr. Jacob Rubinstein

Board of The Sudbrook Club, Inc

Mira Appleby, Secretary
Mark Cohan, Member at Large
Dorothy Collins, Historian
Peggy Eskey, Member at Large

Irma Frank, Co-President
Peggy Lacy, Vice President
Myra Lewis, Treasurer
Jeffrey Smith, Vice President

612 Cliveden Road
Baltimore, Maryland 21208
September 6, 1995

Mr. Jacob Rubinstein
902 Windsor Road
Baltimore, Maryland 21208

Re: Commercial Vehicles on Residential Property

Dear Mr. Rubinstein,

The Sudbrook Club, Inc. has received several complaints regarding what appears to be your operation of a commercial towing business from your residence at 902 Windsor Road. Over a long period of time, your Jerr Dan flatbed truck ("Jake's Towing Baltimore, MD") has been observed consistently parked in your driveway at various times during the day and overnight -- sometimes with vehicles on the flatbed.

As you are aware, Baltimore County Zoning Regulations enforce a strict separation between commercial and residential uses of property in order to maintain the residential character of a neighborhood; this separation contributes toward preserving the property values of all residents. The Zoning Department advises us that a Jerr Dan flatbed, such as the one you have, clearly is a commercial vehicle that should not be housed in a residential area. According to the Zoning Department, parking a Jerr Dan vehicle at a residence, whether with or without additional vehicles on the flatbed, is in violation of Section 431 of the Baltimore County Zoning laws. A copy of this regulation is attached for your review.

The Board of the Sudbrook Club requests that you voluntarily comply with the law and refrain from parking your Jerr Dan flatbed truck in Sudbrook Park. We realize that it will be necessary for you to make arrangements to accomplish this and, therefore, anticipate that the truck may continue to be parked at your residential site for another 30 days. If, however, the truck is there after the 30 days have expired we will --with regret-- take the case to the Zoning authorities.

The next scheduled meeting of the Club is on September 19 at 500 Sudbrook Lane. If you would like to discuss the matter with us --your neighbors-- please let me know (486-3587) and I will be happy to include this item on the agenda. We hope that you and we, together, will work to preserve the residential character of our historic and beautiful community.

Sincerely,

Leonard Frank
CoPresident,
The Sudbrook Club, Inc

RECEIVED
SEP 11 1995

612 Cliveden Road
Baltimore, Maryland 21208
September 23, 1995

Mr. Jacob Rubinstein
902 Windsor Road
Baltimore, Maryland 21208

Re: Commercial Vehicles on Residential Property

Dear Mr. Rubinstein,

This is to follow up on our telephone conversation of this morning and to try to summarize where you and we (i.e., the Sudbrook Club) stand in our controversy over the parking of your Jerr Dan vehicle in your driveway. If you feel that my summary is incomplete or inaccurate please express your thoughts via a letter to the Sudbrook Club, c/o me -- a CoPresident of the Club.

My summary:

1. Parking a Jerr Dan flatbed, such as yours, in the driveway of a home in our residential area is in violation of Section 431 of the Baltimore County Zoning laws. You haven't refuted this.
2. The Board of the Sudbrook Club has been asked to do what it can to end this parking arrangement in order to preserve the residential status of our community. The Board felt (and still feels) that the best way to achieve this is by voluntary action on your part; it has no desire to subject you to legal action by the County. Thus, my letter of September 6, 1995 communicating this request.
3. Although you persist in ascribing our stand to the complaint of one individual I assure you that the Board is unanimous in its desire to have you park your vehicle outside of Sudbrook Park. In every sense, your differences are with the Board and not with any particular person.
4. You maintain that, in taking this action, the Sudbrook Club is not expressing the will of the community which it is purporting to represent. It should be remembered that a single individual, a group, or the Zoning Commission on its own volition can initiate action.
5. I asked whether you would like an additional thirty days (from today) in which to make arrangements to park your vehicle elsewhere. You chose not to make such a request and suggested that the Board decide if and how it would like to help you in these arrangements and to let you know in writing. I can now advise that the Board will withhold the filing of any complaint in this regard until October 24, 1995 in the hope that you will find suitable parking arrangements.

I see no chance for the Board to follow the course that you expressed in our conversation -- viz., simply do nothing about the zoning violation and not react to the current parking arrangements for your Jerr Dan vehicle. For what it is worth, I assure you that we hope we can reach resolution without legal action and at minimal business cost to you in finding alternative parking arrangements.

Sincerely,

Leonard Frank
CoPresident,
The Sudbrook Club, Inc

612 Cliveden Road
Baltimore, Maryland 21208
March 23, 1997

The Board of Appeals of Baltimore County
Old Courthouse Building
400 Washington Avenue
Towson, Maryland 21204

Re: Case # 97-52-A
Petitioner: Jake Rubinstein

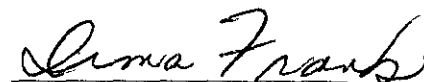
Dear Persons,

We have been home-owner residents of Sudbrook Park since 1964. During this time we have appreciated the residential nature of this community and its serenity. Its streets have been largely devoid of apparent commercial activity; they invite leisurely walks and contemplation. This, of course, is no accident. The community was designed for this kind of living by Frederick Law Olmsted, Sr., a visionary landscape architect who anticipated the need for unperturbed residential neighborhoods.

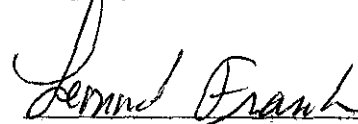
Mr. Rubinstein's flagrant disregard of Baltimore County zoning regulation Section 431 with respect to parking his 15,000 lb Jerr-Dan tow truck in his driveway is a sad intrusion on our lives in Sudbrook Park. He has persisted in this illegality for many years in spite of continued community requests to find an esthetically acceptable and legal parking arrangement. Support for our position was provided by the Zoning Commissioner's denial of Mr. Rubinstein's variance request some six months ago.

Surely, law-abiding County residents such as ourselves should not have to endure this abuse of a zoning regulation. We urge your Board to uphold the earlier denial of the variance request in this case.

Very truly yours,



Irma Frank



Leonard Frank

1007 Windsor Road
Baltimore, MD 21208
September 4, 1996

By telecopier to 887-2824

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Suite 112 - Old Courthouse
400 Washington Avenue
Towson, MD 21204

Re: Petition for Variance - Case No. 97-52-A (Item 45)
(Jake Rubinstein, Petitioner)

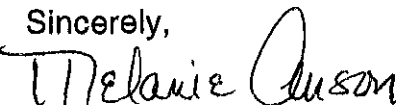
Dear Commissioner Schmidt:

I am writing as a resident of Sudbrook Park to unequivocally oppose the variance requested by Mr. Rubinstein to keep his Jerr-Dann truck at his residence at 902 Windsor Road. Whether loaded with vehicles, as it sometimes has been, or standing unloaded, it is an obtrusive commercial vehicle that has no place in a residential area such as Sudbrook.

Sudbrook was designed in 1889 by Frederick Law Olmsted, Sr., America's first and most renowned landscape architect. As a part of his plan for the community, Olmsted included deed restrictions that were the first comprehensive land-use requirements in Baltimore County. Olmsted felt it imperative to separate commercial and residential uses, and included a provision to prohibit commercial intrusions. His restrictions pre-dated the adoption, more than fifty years later, of zoning laws for all of Baltimore County.

I feel that it is of paramount importance to uphold zoning laws that were enacted to separate residential and commercial uses in *all* communities, but particularly in older and historic ones like Sudbrook Park. Mr. Rubinstein's Jerr-Dann is a jarring misfit in this bucolic community and totally out of character with our historic neighborhood. Moreover, granting this variance would undoubtedly open the door to other such requests; many people who have commercial vehicles which are not by law allowed to be kept at their homes would find it more convenient and profitable to do so. The end result would be a mockery of the rationale for having zoning laws at all. I urge you to deny the requested variance.

Sincerely,


Melanie Anson

Bayard Z. Hochberg
710 Cliveden Road
Baltimore, MD 21208
484-0549

September 3, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Bldg.- Rm 112
400 Washington Avenue
Towson, MD 21204

Re: Petition for Variance - Case No. 97-52-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

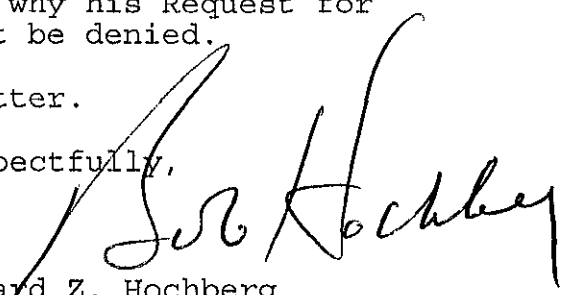
I am writing to you in the above matter as a resident of Sudbrook Park for 37 years. During these years I have been active as an Office, Director, Committee member, Volunteer, attorney, and in every other way. I would like to help maintain our Community and its history. I currently serve as Chair of the Sudbrook Park Advisory Committee coordinating on Landmarks matters with the County's Landmark Commission. Sudbrook Park is a "village" like no other in Baltimore County, perhaps not even in the entire State.

I am well aware of the problems of Mr. Rubenstein and his tow truck at 902 Windsor Road., since I have to see it on my walks and rides thru the Park. It is one of our few ugly sights. We have been trying for more than a decade to get this owner to do something, to meet us halfway at least, in removing it from view. I personally made known to him the availability of garage space nearby; he apparently was not interested. His position was confrontational, combative, and "in your face." He has probably been violating the law for years and now asks that his attitude be legitimized.

I cannot think of one good reason why his Request for Variance should be granted, and urge it be denied.

Thank you for considering this letter.

Respectfully,


Bayard Z. Hochberg

BZH/dms

cc: Mr. & Mrs. Len Frank

711 Cliveden Road
Pikesville, Md. 21208
September 4, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Suite 112 -Old Courthouse
400 Washington Avenue
Towson, Md. 21204

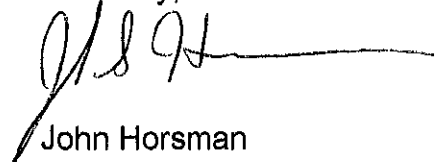
Re: Petition for Variance - Case No. 97-52-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

I am writing to oppose the variance requested by Mr. Rubenstein to keep his Commercial Rollback tow truck at his residence at 902 Windsor Road in Sudbrook Park. Mr Rubenstein's Truck has been an eyesore in our community for too long and needs to be removed.

Mr. Rubenstein's Truck was an issue when I was President of the Sudbrook Club from 1992 to 1994. When I first took office it was brought to me as a complaint. At the time we were too busy with getting Landmark designation to be able to deal with the truck issue. When we finally were able to start dealing with some of the zoning problems in the neighborhood, we were told there was a law being introduced to lower the burden of proof. Since simply asking Mr. Rubensein to please move his truck had failed in the past we decided to wait for the new law in order to make the process easier. Before that occured we then had several other major issues come up that prevented us from getting back to Mr. Rubenstein's truck, though the issue was still discussed at meetings. Our lack of action should not be taken as consent of Mr. Rubenstein violating Zoning Laws.

Sincerely,



John Horsman

1018 Windsor Road
Pikesville, Maryland 21208
August 30, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Building, Room 112
400 Washington Avenue
Towson, MD 21204

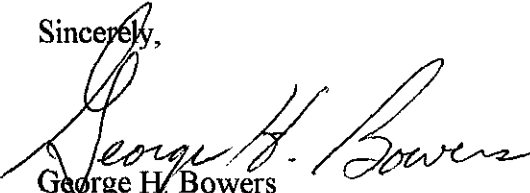
RE: Petition for Variance - Case No. 97-52-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

I am a resident of Sudbrook Park and am writing to oppose the above-referenced request for a variance. Sudbrook Park is a fine residential neighborhood with a proud history of being one of only four residential neighborhoods planned by Frederick Law Olmstead, Sr. The vast majority of the residents take great pride in their homes and gardens, which helps to preserve Sudbrook Park's sense of community. As one of the older neighborhoods in Baltimore County, we are fighting the same factors which are causing many county neighborhoods to decline--crime, declining public schools, and properties which are allowed to fall into disrepair. For quite some time, the Jerr-Dann tow truck parked in a driveway on my street has been a major eyesore for all of the residents on Windsor Road. It has been a negative factor in selling other homes on Windsor Road. This is a large commercial vehicle that does not fit with the residential character of this neighborhood.

Many residents of Sudbrook Park have invested substantial amounts of money to renovate and improve their homes. We do this because Sudbrook Park is a beautiful neighborhood with fine older homes and good neighbors. When I purchased my home in Sudbrook Park three years ago, I understood the fact that there were restrictions on what I can and cannot do to my home. I appreciate those restrictions because they help to ensure that the neighborhood will continue to have its wonderful appearance and be attractive to future homeowners. A variance will open the door to neighborhood decline, lower property values, and fewer tax dollars to fight the problem. I strongly urge you not to grant this variance.

Sincerely,


George H. Bowers

cc: ~~Len Frank~~

708 Cliveden Road
Baltimore, MD 21208

September 5, 1994

Lawrence C. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Building - Room 112
400 Washington Avenue
Baltimore, MD 21204

RE: Petition for Variance - Case No. 97-S2-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

As residents of Sudbrook Park, my husband and I take pride in its unique historical character. We have endeavored since moving here eight years ago, to preserve this heritage by actively participating in our community organizations which work to maintain this heritage. My husband, in particular, has invested countless hours working toward this goal.

We are very much opposed to the above referenced variance. Not only will the large, obtrusive truck continue to be an eyesore, but it continues to send a visual message that a commercial

operation is permitted in our neighborhood.
We want to retain Audbrook Park as
a residential neighborhood.

Please help Audbrook Park residents
maintain our special historical status
by denying this variance.

Sincerely,

Patricia Little-Peterson

March 22, 1997

The Board of Appeals of Baltimore County
Old Courthouse Building
400 Washington Street
Towson, Maryland 21204

Re: CASE #97-52-A (Jake Rubenstein)

Dear Board Members,

As a neighbor of Sudbrook Park for twelve years and a board member of the Baltimore County Historic Trust, I request that you deny Mr. Rubenstein's appeal. The zoning Commissioner ruled ~~his~~ against his petition for a zoning variance last fall because it went against everything the people in our peaceful and scenic community have strived for.

Ours is a residential and historic neighborhood. Our families are invited to special events and gatherings regularly. Cooperation among neighbors has led to the creation of local ~~for~~ historic landmark district status as well as a designated National Historic Landmark. Some of the qualities that attract and interest residents to settle and remain for decades are also protected by zoning regulations that disallow large, oversized commercial vehicles in our streets and front yards.

Mr. Rubenstein's Jerr-Dan tow truck is an eyesore, and a variance would encourage others to act in the same manner. Please restrict such actions.

ENCLOSURE

Yours truly,
Jenny Sataloff

Lawrence E. Schmidt
Zoning Commissioner
Office of Planning & Zoning
Old Courthouse Building - Rm 112
400 Washington Ave.
Towson, Md. 21204

Aug. 30, 1996

Re: Petition for Variance - Case No.

97-52-A

Dear Commissioner Schmidt,

(Petitioner is Jake Rubenstein)

I have lived in Sudbrook Park and am currently raising my four children here. It is a lovely neighborhood and I would like to stay here for a long time. My husband teaches at McDonough School and I am on the board of the Baltimore County Historical Trust. I also run the Pikesville Rec. soccer clinic for 5 & 6 year olds (I need a raise!!!) I am also on the committee with ~~the~~ Councilman Kevin Kamenetz to write up a comprehensive plan for Sudbrook Park. I would like to encourage neighboring areas to organize and do something for themselves as well.

For as long as I have lived here, Mr. Rubenstein's commercial and large vehicle has been a source of conflict. He needs to hear from an authority that his truck does not belong where he is insisting with his variance request. We would like to preserve the residential nature of this historic neighborhood. Opening the way to his truck would encourage other owners of commercial trucks to follow suit and that would have a negative impact on this neighborhood. Please help us as we continue to maintain and improve a unique part of Baltimore County.

Sincerely,
Jenny Lee Sataloff

RECEIVED
OCT 1 1996

9/96

I the undersigned reside in Sudbrook Park,
and representing my household, DO NOT support
the actions undertaken that will prevent the
parking of one truck in excess of the 10,000
pd. limit, (but not to exceed 15,000 pd GVW)
in the driveway located at 902 Windsor Rd.

I therefore support the approval of the
ZONING variance applied for in this matter

NAME:

ADDRESS:

Brian H. Reynolds Brian Reynolds

904 Windsor Rd

Mandy Brahm
SHELDON BRAHMS SULLMAN

906 WINDSOR ROAD

KEN BARKS

903 WINDSOR RD.

Charlotte A. Phillips

600 Campbells Rd.

John
Margaret Lowe Kamp

911 Windsor Rd

Heather

910 Windsor Rd.

Tom Hayden

913 Windsor Rd

Sharon Wase

1004 Kingston Rd.

Fred Schottall

1005 Kingston Rd.

Elaine Briggs - Col

1008 Kingston Rd

Paul Adams

1011 Kingston Rd.

Robert G. Say

1013 Kingston Rd

James Dwyer

943 Chestnut Rd.

Michael Carly

1003 Kingston Rd.

Jeff Moss

908 WINDSOR ROAD

Patricia A. Mosner

560 SUDBROOK LANE

Mary H. Mosner

520 SUDBROOK LANE

520 Sudbrook Lane

900-907 empty

9/96

I the undersigned reside in Sudbrook Park,
and representing my household, DO NOT support
the actions undertaken that will prevent the
parking of one truck in excess of the 10,000
pd. limit, (but not to exceed 15,000 pd. GVW)
in the driveway located at 902 Windsor Rd.

I therefore support the approval of the
ZONING variance applied for in this matter

Name

Address

Charles Aiken Mills Jr.	601 Carysbrook Road
Dennis A. Shelly Jr.	600 Carysbrook Road
Richard A. Muff	600 Carysbrook Road
Christina Croman	703 Carysbrook Rd
Jon Ellen Andersson	605 Carysbrook Rd

Time
9/6
9:00 AM

Project Name	
Client Name	
Project Manager	
Project Number	
Project Status	
Project Start Date	
Project End Date	
Project Budget	
Project Location	
Project Description	

1000 1st Street
Baltimore, MD
September 6, 1996

Mr. [Name]
[Address]
[City, State, Zip]

Dear Mr. [Name]:

Thank you for your letter of [Date].

We are pleased to hear that you are interested in our services. We will be happy to provide you with a detailed proposal and answer any questions you may have.

We will be in contact with you again in the near future regarding the various options available to you. We will be sure to keep you informed of all developments.

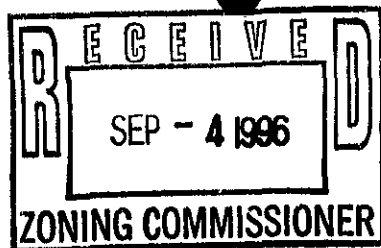
We look forward to working with you on this project. Please do not hesitate to contact us if you have any questions or need further information.

Very truly yours,

[Signature]

Daniel J. [Name]

(11/11/96)



1007 Windsor Place
Baltimore, MD 21203
September 4, 1996

By teletypewriter to 807-2024

Lawrence L. Schmidt
Zoning Commissioner
Office of Planning and Zoning
Suite 112 - Old Courthouse
400 Washington Avenue
Baltimore, MD 21204

Re: Petition for Variance Case No. 87-52 Approved
(Jako Rubinstein Pottoner)

Dear Commissioner Schmidt:

Concerning a resident of Sudbrook Park to request a variance requested by Mr. Rubinstein to keep his den Dacia vehicle in his driveway at 807 Windsor Road. Whether loaded with vehicles or not, it has been consistently loaded. It is an obtrusive commercial vehicle in a residential area such as Sudbrook.

Sudbrook was designed in 1889 by Frederick Law Olmsted, Sr., America's first and most renowned landscape architect. As a part of his plan to the community, Olmsted included restrictions that were the first comprehensive land use requirements in Baltimore County. Olmsted's plan imperative to separate commercial and residential uses and include a provision to prohibit commercial intrusions. His restrictions pre-dated the adoption, more than fifty years later, of zoning laws for all of Baltimore County.

I feel that it is of paramount importance to uphold zoning laws that were enacted to separate residential and commercial uses in all communities, but particularly in older, and historic ones like Sudbrook Park. Mr. Rubinstein's den is a glaring misfit in this but the community and totally out of character with our historic neighborhood. Moreover, granting this variance would undoubtedly open the door to other such requests, many people who have commercial vehicles which are not by law allowed to be kept at their homes would find it more convenient and profitable to do so. The end result would be a mockery of the rationale for having zoning laws at all. I urge you to deny the requested variance.

Sincerely,

Melanie Anton

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Fax

To: [Redacted] From: [Redacted]

Fax: 410 557 2624 Pages: 2

Phone: [Redacted] Date: September 5, 1996

Re: [Redacted] CC: [Redacted]

☐ Urgent ☐ For Attention ☐ Please Comment ☐ Please Reply ☐ Please Reply

Comments: [Redacted]

10/1/96 10:12 AM [Redacted]

Robert Griffith
902 Windsor Rd
Baltimore, MD 21206

September 5, 1996

Executive Council
Zoning Commission

Case Number 97-52 A Item 45
Address 902 Windsor Rd
Petitioner Jake Rubinstein

Dear Mr. Schmidt:

I am writing to express my opposition to a petition for a variance that would allow a neighbor to park 3 commercial vehicles in our community. I feel it is inappropriate for commercial vehicles to be allowed to park in a residential community particularly a historic neighborhood such as Sudbrook Park. Granting this individual this variance would not only allow this property to continue to be an eyesore, but also would set a dangerous precedent which may lead to increased commercial activity in our community. I hope you will take my objections along with all the objections of my neighbors into account when a decision is made on this matter.

Sincerely,

Robert Griffith

Robert Griffith

607 Redwood Road
Baltimore, Maryland
September 7, 1996

Deputy to the Commissioner
City of Baltimore
Room 1101, Council House
100 East Union Avenue
Baltimore, MD 21201

Re: Case #97-52 & (Item 45)
Petitioner: Jake Robinson
Hearing: 9-6-96 at 1:00 PM

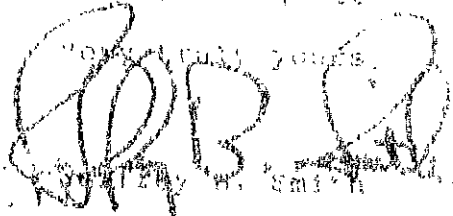
Dear Commissioner Karpov:

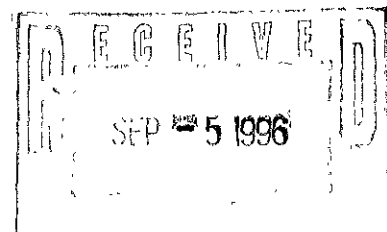
I most respectfully request that the petition for
variance in the above matter be denied.

The 15,000 pound truck parked at 901 W. 1st St.,
adjacent to the front yard, and used exclusively as a
commercial vehicle to tow and/or haul heavy equipment, is a
clear and frequent violation of the applicable zoning law
and ordinance. It is a detriment to the entire 100 ft
corner in Guilford Park.

We have strived diligently to maintain this safe, vibrant
community and the quality of life for our families. The
Guilford Park is on the National Register of Historic
Places, in a Baltimore County Landmark District and is a
Community Conservation District.

Thank you for your consideration of this request.

Sincerely,

JAKE ROBINSON



State University of New York at
SUNY, Cortland, 1962
SUNY at Plattsburgh and College
of the Holy Cross, Burlington, Vermont 1963
1969 Vassar College, Poughkeepsie
College, Maryland 1969

1. *How can we make the most of the time we have?*
 2. *How can we make the most of the people we have?*
 3. *How can we make the most of the money we have?*

Let α denote the number of vertices of G_2 , and let β denote the number of vertices of G_3 . Then

[illegible]

With the addition of a regulated parking zone, limits on car access to the city centre, and the introduction of a road toll, it is seen that the heavy road traffic in the city centre is reduced. The regulated parking zone is a measure to reduce the number of cars in the city centre. The toll is a measure to reduce the number of cars in the city centre. The regulated parking zone is a measure to reduce the number of cars in the city centre. The toll is a measure to reduce the number of cars in the city centre.

1. Approximate the solution of the boundary value problem $y'' + y = 0$, $y(0) = 0$, $y(2\pi) = 0$ by the method of least squares.

Robert Lee Katschberg, III
101 W. 4th Road
Piquette, Michigan 48063
(410) 886-1121

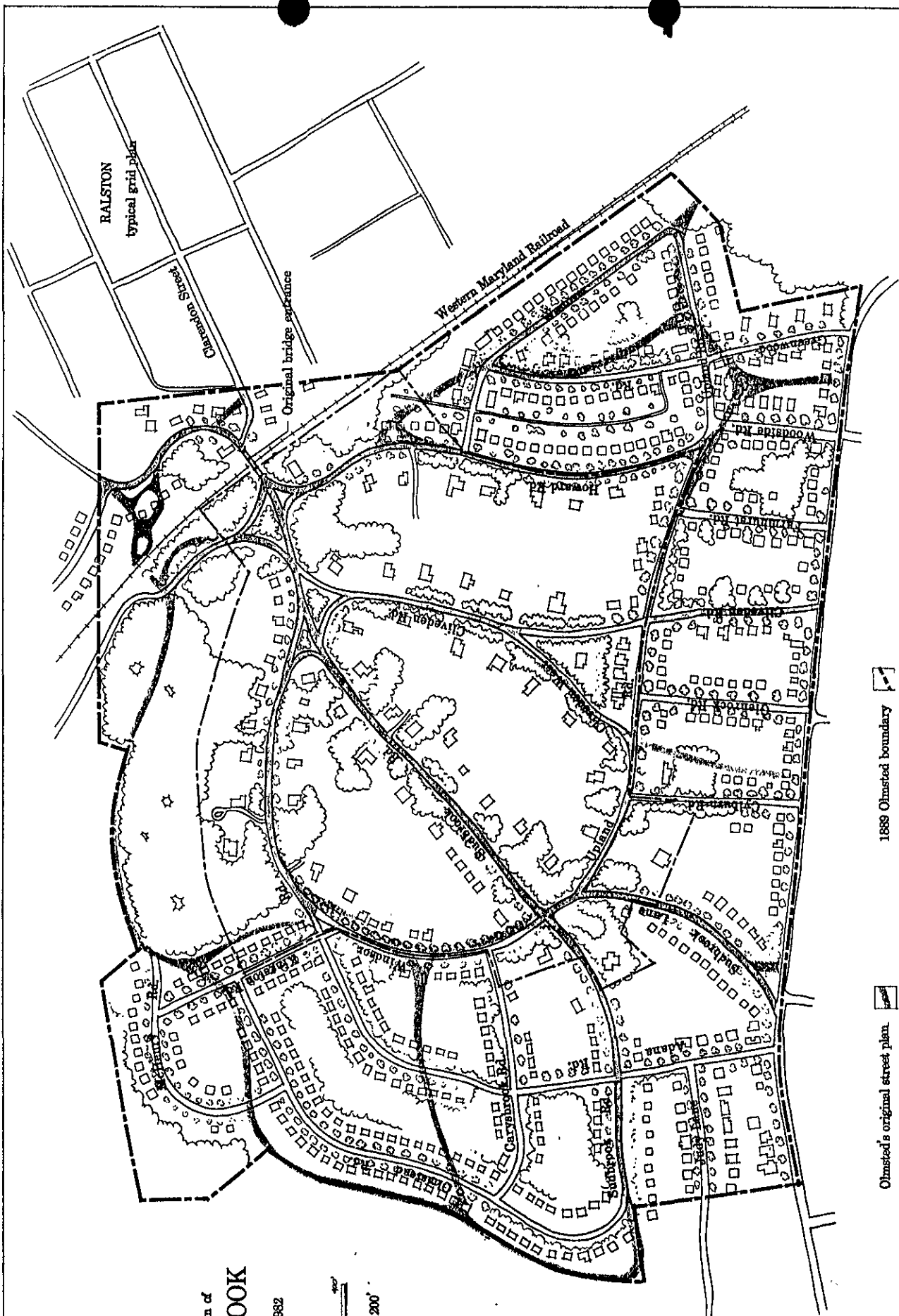
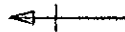
• Admission

General Plan of
SUDSBROOK

July 28, 1932

0 100 200 400'

Scale: 1" = 200'



Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 902 Windsor Rd.

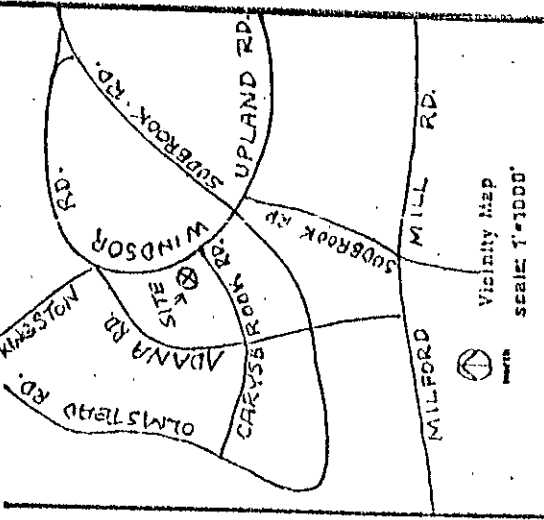
see pages 5 & 6 of the CHECKLIST for additional required information

Submission name: Sudbrook Park

plat book# 12, folio# 51, lot# 19, section# 1

97-52-A

OWNER: JAKE ROBINSTEIN



LOCATION INFORMATION

Election District 2

3
Councilman District

$T = 200^\circ$ scale mg.
 NW-7E

DR S.S.

Lot size: 0.17 7,700

Estimated Actual Test

415443 211474

☐ 註冊商標

~~SECRET~~

21 Apr 12

Crescenzo by Critical Area:

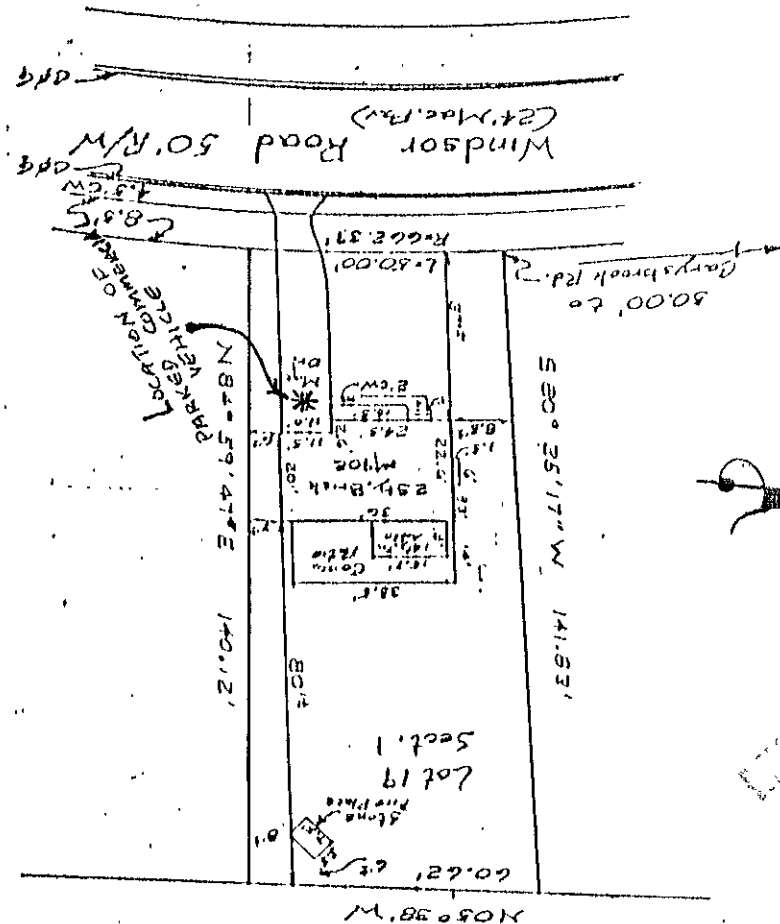
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Q. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20.

March 11, 1997

Ms. Melanie Anson
1007 Windsor Road
Baltimore, MD 21208

RE: Case No. 97-52-A
Jake Rubinstein -Petitioner

Dear Ms. Anson:

Enclosed are the copies you requested yesterday afternoon. Additionally, these same pages were sent to you via FAX earlier today.

Should you have any questions, please call me.

Very truly yours,

S/ 3/11/97
Kathleen C. Bianco
Legal Administrator

Enclosure

March 11, 1997

Ret. Ex. 1

AFTER RECORDATION RETURN TO
 CARRIS TITLE COMPANY
 1220 Maryland Avenue
 Baltimore, MD 21205
 Tel. 685-8700
 Fax 685-8886

It is to certify that the foregoing instrument has been prepared by or under the supervision of the undersigned Maryland Attorney at Law, to this instrument

Attorney Jeffrey E. [illegible]

THIS DEED is made this 14th day of December, 1994, by and between ARTHUR L. WHITTAKER, party of the first part, and BRYAN H. REYNOLDS, DEBRA H. REYNOLDS, and ALFRED R. DEPNAS, parties of the second part.

WITNESSETH that in consideration of the sum of ten dollars and other good and valuable considerations, the receipt of which is hereby acknowledged, the second part, for and in consideration of \$100,500.00, including any outstanding mortgage indebtedness, the party of the first part does grant, sell and convey to the parties of the second part, as joint tenants and not as tenants in common, their assigns, and the survivor of them and the survivor's heirs, legal representatives and assigns, an fee simple all that lot of ground situated in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING FOR THE SAME on the Westernmost side of Windsor Road at the distance of one hundred feet northerly as measured along the westernmost side of Windsor Road from the northernmost side of Carysbrook Road and thence northerly thence northerly binding on the westernmost side of Windsor Road by a curve to the right having a radius of 552.39 feet the distance of fifty feet to Lot No. 21 of Section 1 on the Plat hereinafter referred to, thence south 88 degrees 14 minutes 17 seconds west binding on said Lot No. 21 231.77 feet to Lot No. 16 of Section 1 on said Plat; thence south 10 degrees 44 minutes 20 seconds west binding along said Lot No. 16 and Lot No. 17 of Section 1 on said Plat 46.60 feet to Lot No. 15 of Section 1 on said Plat; and thence north 44 degrees 24 minutes east binding along said Lot No. 15 and along Lots No. 16 and 17 of Section 1 on said Plat 112.94 feet to the northernmost corner of said Lot No. 17; thence south 5 degrees 18 minutes east binding along said Lot No. 17, 22.53 feet to Lot No. 18 of Section 1 on said Plat and thence north 84 degrees 44 minutes 17 seconds east 140.12 feet to the place of beginning. The same being known as No. 904 Windsor Road.

SUBJECT Lot No. 16 of Section 1 as shown on the Revised Plat of a part of or Subdivided Land, which Plat is recorded among the Plat Records of Baltimore County in Plat Book CNE JR No. 12, Folio 51.

BEING ALL AND THE SAME lot of ground which by deed dated August 31, 1988, and recorded among the Land Records of Baltimore County in Liber 7968, Folio 777, was granted and conveyed by Donald Hicks and Phyllis Hicks unto Beth L. Whittaker, the within named grantor

MICROFILMED

This Deed

is made this 1st day of March 1966 by and between

John Doe, of the County of [] State of []

and Jane Doe, of the County of [] State of []

and [] of the County of [] State of []

and [] of the County of [] State of []

As witness my hand and seal this 1st day of March 1966

at [] [] []

and [] of the County of [] State of []

JOHN DOE
JANE DOE
[] [] []
[] [] []
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and [] of the County of [] State of []

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and [] of the County of [] State of []

RECORDED

4/1/66

RECEIVED

This Book

In the year of our Lord one thousand nine hundred and fifty eight
JOHN WYCK
of the County of Baltimore
State of Maryland
do hereby certify that the within and foregoing is a true and correct copy
of the original of the within and foregoing as the same appears from the
records of the said County of Baltimore and State of Maryland.

WITNESS my hand and the seal of the said County of Baltimore and State of Maryland
this 15th day of April 1958.

JOHN WYCK, Clerk of the County of Baltimore and State of Maryland.

Notary Public for the State of Maryland.

JOHN WYCK, Clerk of the County of Baltimore and State of Maryland.
Notary Public for the State of Maryland.

Notary Public for the State of Maryland.

770012
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Pct. Ex. 3

SECURITY TITLE GUARANTEE CORP.
6 S. CALVERT STREET
BALTIMORE, MARYLAND 21202

THIS DEED, MADE THIS 17th day of July in the year one thousand nine hundred and ninety-one by and between LEE RICHARD JACOBSON and BARBARA BESS JACOBSON, husband and wife, parties of the first part, and MICHAEL W. EARLY, party of the second part

WITNESSETH that in consideration of the sum of ONE HUNDRED TWELVE THOUSAND DOLLARS AND 00 CENTS, (\$12,000.00), which includes the amount of any outstanding Mortgage or Loan of Trust, if any, the receipt whereof is hereby acknowledged, the said LEE RICHARD JACOBSON and BARBARA BESS JACOBSON, husband and wife, do grant and convey to the said MICHAEL W. EARLY, his personal representatives and assigns, in fee simple, all that lot or parcel situate in Baltimore County, Maryland and described as follows, that is to wit:

BEING KNOWN AND DESIGNATED as Lot No. 22, Section 1, as shown on the Plat entitled "Revised Plat of a Part of Sudbrook Park", which Plat is recorded among the Land Records of Baltimore County, in Plat Book C.W.Fair, No. 12, folio 51. The improvements thereon being known as No. 908 Windsor Road.

BEING the same lot or parcel which by Deed dated April 18, 1978 and recorded among the Land Records of Baltimore County in Deed Book 111, No. 5877, folio 259, was granted and conveyed by ALAN W. EVANS and LORRAINE M. EVANS, his wife, to LEE RICHARD JACOBSON and BARBARA BESS JACOBSON, his wife, the within Certificate.

630.45 15.00
630.45 410.00
630.45 260.00
630.45 5.00
DEED 0
630.45 950.00
#50000 2500 702 111.2
08/01/79

AGRICULTURAL TRANSFER
NOT APPLICABLE

SIGNATURE JR 725-91

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

JR 725-91
Date

MICROFILMED

\$ 33,250.00

This Deed, made this 18th day of April

1974, between and between
ALAN S. EVANS and MARGARET M. EVANS, his wife,

of the first part, and

LEE RICHARD JACOBSON and MARGARET BERT JACOBSON, his wife,

of the second part.

WITNESSETH That in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, receipt of which is hereby acknowledged,

the said parties of the first part,

do hereby convey unto the said parties of the second part, as tenants by the whole, their heirs, and unto the survivor of them, his or her

in fee simple, all that
lot of ground situated in Baltimore County, State of Maryland,
more particularly described as follows:

ALSO KNOWN AND DESIGNATED as Lot No. 27, Section 1, as shown on
the Plan entitled "Division of a Part of Sudbrook Park", which Plan
is recorded among the Land Records of Baltimore County in Plat Book C.W.B.
No. 12, folio 51.

Said lot of ground which by Deed dated November 15, 1974,
and recorded among the Land Records of Baltimore County in Liber F.H.K. Jr.
No. 12, folio 51, was granted and conveyed by Betty Carlaux unto
Alan S. Evans and Margaret M. Evans, his wife.

WITNESSETH That the above described premises are not subject to any lien or claim of any kind, and that the same are not encumbered by any mortgage or other lien or claim of any kind.

3-18-74

723,750



NIGHTHAWK PRODUCTIONS, INC.
Sudbrook Park
906 Windsor Road
Baltimore, MD 21208
(410)484-1656 / FAX (410)484-1618

Ref. Ex. 7

March 25 1997

Baltimore County Zoning Appeals Board

Dear Sir/Madame:

Re: Jake Rubinstein
Jake's Towing
902 Windsor Road

Due to a scheduling conflict, we are unable to appear in person at this hearing, and therefore, would like to submit the following statement of support on Mr. Rubinstein's behalf.

1. We have lived at our present address of 906 Windsor Road, two doors down from Mr. Rubinstein, for approximately 12 years
2. Mr. Rubinstein's truck was parked in his driveway when we first came to look at this house
3. We did not consider the truck an eyesore, and the truck did not enter into our purchase discussions, or have any impact at all on our decision to buy this house
4. At no subsequent time have we considered the truck an eyesore, or even a topic of conversation (other than during the current zoning controversy)
5. At no time has this truck been a nuisance to us in any way
6. At no time has Mr. Rubinstein been a nuisance to us in any way, and we consider him an extremely good neighbor
7. Most of our block of Windsor Road is not part of the Sudbrook Park Historic District, including all of the houses on Mr. Rubinstein's side of the block, and therefore an inappropriate target for the vitriol that the Sudbrook Club is generating (not that there is ever justification for such lack of civility)
8. We consider the actions of the Sudbrook Club in this matter to be most reprehensible and cowardly, especially since at the most basic level, the Club is doing its best to deprive a person of their home and/or livelihood, even though his immediate neighbors have no complaints about the truck

ENCLOSURE

March 25, 1997

9. We consider the Sudbrook Club's expenditures in this matter a most inappropriate use of our dues, and have withdrawn our membership in this organization

10. We moved into this neighborhood largely because of the strong sense of community, yet we find that the Club's actions in this matter have severely fragmented this community, causing a great deal of dissension and ill will

11. Up until this time, no one has ever complained to us about Mr. Rubinstein's truck, nor let us know that it was an issue

12. We read most of the Sudbrook Park newsletters, and over the years have not seen any reference at all to this truck, much less any attempt to gauge the entire community's feelings on this matter

13. We do not feel that the presence of this truck has in any way affected our property's value, and this opinion is confirmed by our increasing tax assessments, and the value put on our house during a recent appraisal

14. This truck is such a non-issue to us, that we have invested approximately \$100,000 in the expansion and remodeling of our home, committing us to this neighborhood for quite some time

15. A number of other families on our block have recently and similarly expanded their homes, despite the fact that this truck is parked in Mr. Rubinstein's driveway

16. We feel that this type of commitment contributes to a neighborhood's stability, and that Mr. Rubinstein has proven to be a neighbor who also cares about the neighborhood - a community such as Sudbrook Park needs this for its continued existence as a very special place to live

Thank you very much.

Sincerely,



Sheldon and Mindy Brahms
906 Windsor Road

Pet. Ex. 8

Mrs. Julia S. Bates,
900 Windsor Road,
Baltimore, Maryland 21208

Mr. Jake Rubinstein,
902 Windsor Road,
Baltimore, Maryland 21208

Dear Jake:

I want to formally let you know that I support you and I oppose the various attempts of the Sudbrooke Association to keep you from having your towing vehicle at your house.

I have known you as a friend and next-door neighbor for over seventeen years and I could not hope for a better one. Your many kindnesses and help to me over the years are greatly appreciated and fondly remembered.

I often wonder why the Association said nothing about your truck for seventeen years and is only now giving you grief about it. This vehicle has never bothered me or caused me the least concern.

Best wishes and good luck in your case, I am your friend and neighbor,

Sincerely,

Julia S. Bates

Mrs. Julia S. Bates

MICROFILMED

10/1/96

Pet. Ex. 9

Dear Jake,

We are sorry you lost your variance increase on your truck. It is unfortunate the historical area has no buffer zone. Since few of your neighbors are adding extensions to their homes its obvious they do not view your truck as jeopardizing the beauty of the park or future resale value of their homes. In order to notice your truck you have to really be looking for it.

You moved here with a truck and have been here in Sudbrook Park for 17 years. The area has changed and so has crime. I see no reason for so much fuss over parking in your own driveway.

If you decide to appeal this decision you have my permission to use this letter as you see fit.

10th/96

Pet. Ex.

Dear Jake,

We are sorry you lost your variance increase on your tree. It is unfortunate the historical area has no buffer zone. So few of your neighbors are adding extensions to their homes it is obvious they do not view your tree as jeopardizing the look of the park or future resale of their homes. In order to not lose your tree you have to really be looking for it.

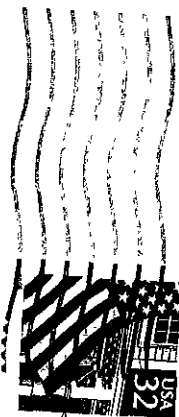
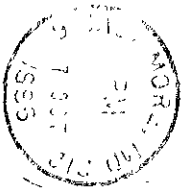
You moved here with a tree and have been here in Saddle Park for 17 years. The area has changed and so has Currier. So no reason for so much of over parking in your own driveway.

If you decide to appeal this decision you have my permission to use this letter as you see fit.

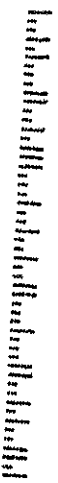
Dennis & I are leaving soon to visit
relatives in Florida.
Good luck.

As ever,
Charlotte Riley

Mr. Dennis A. Phillips
600 Carysbrook Rd
Baltimore MD 21208



*Mr. Robert J. Robinson
902 Windsor Road
Baltimore, md. 21208-4712*



SUDBROOK CLUB

Board of Directors

August 26, 1981

PROTECTED
EXHIBIT NO. 2

PRESENT: Rick Bauman, Joanne Bauman, Sally Gracie, Clarence Inglis,
Melanie Anson, Dottie Collins, Donald Hicks, Bob Hochberg,
Max Weisfeld, Jake Rubinstein, Kathleen Boyle.

CALL TO ORDER: Vice-President Rick Bauman called the meeting to order
at 8:09 P.M.

TREASURER'S REPORT: No report was presented.

TOW TRUCK: Jake Rubinstein was invited to this month's meeting to discuss the problem with his tow truck. Mr. Rubinstein explained the steps that he had taken in order to resolve the problem with his tow truck. He sent a petition around to all of his immediate neighbors asking them to sign the petition if his tow truck did not bother them. Two households did not sign: 1) this neighbor did not care about the truck but did not want to get involved, and 2) the next-door neighbors would not sign. Mr. Rubinstein explained that his truck is his livelihood and that he is on-call twenty-four hours per day. He noted that he deals with businesses and not the public and that at 2AM or 4 AM he must be able to respond promptly or he will lose business.

Members of the Board noted that the Sudbrook Club Board has been receiving complaints from members of the Sudbrook Club regarding the tow truck for approximately two years. It was noted that parking a commercial vehicle over 3/4 ton in a private driveway in a residential neighborhood is a zoning violation. When the tow truck is parked in the street, if another car is parked directly across from it, the street is too narrow to allow more than one car to get through. One member of the Board noted that some or all of the people who signed the petition felt coerced to sign it, because they were afraid not to. Another member noted that the truck was reported to the county zoning board two years ago. The county came in and inspected a complaint lodged by a member of the Club. If another complaint is received by the county, even if it is just a verbal complaint, the county can proceed with a court injunction.

The possibility of renting a garage in order to store the truck was discussed as one resolution to the problem. There are, however, a number of constraints including: 1) the truck does not fit in a lot of garages due to its size, 2) expense, 3) it must be a secure place and 4) it should be near Mr. Rubinstein's house in order that he may reach his truck promptly and also that he can be on the road quickly in any kind of weather conditions, rather than having difficulty reaching his truck in his car in snow emergencies. Mr. Rubinstein stated that he was willing to look into the possibility of renting a garage near his home. Several Board members made several suggestions as to possibilities that could be investigated.

Rick Bauman summarized the discussion by stating that it is important to find some medium ground between the two sides. He noted that Mr. Rubinstein said that he would look into the possibility of renting a garage to store the truck. If this solution is not attainable, perhaps the neighbors can be approached to see if it would be acceptable for him to park his truck in the driveway.

For future reference, the secretary has researched the Club's minutes and has found that references to the tow truck issue appear in the following sets of minutes: September 10, 1979; November 13, 1979; November 19, 1980; and, June 16, 1981.

A second issue discussed with Mr. Rubinstein was his hobby of working on and repairing cars for friends. He noted that his hobby was not able to be conducted in his basement as compared with some people who repair appliances in their basements. Several members of the Board questioned whether these were friends' cars which were being repaired. It was decided that this issue was not as high a priority as the location of the tow truck and its unsightliness. It should be noted that the unsightliness of the tow truck was of concern because of the Club's current efforts to maintain its image as an historic district worthy of preservation, along with its efforts to prevent the encroachment of the Mass Transit.

TRAFFIC ISSUES: Mr. Donald Hicks presented the problem of vehicles speeding through the neighborhood. He noted that he never sees radar in the Park. The Board advised him that this is an issue that needs continual follow-up. It was noted that it is possible to estimate the speed of the vehicle, obtain the name and address, and see that a violation ticket is filled out. It has been necessary for the person lodging the complaint to go to court to testify. Another violation that is easier to prove is squealing tires. It was noted that speed traps could be helpful in deterring the speeders. Concern was noted regarding children in the neighborhood and their safety. Someone is needed to call the police and also to correspond with our representatives: Huddles and Levin. Retribution has been paid to people who have lodged complaints in the past e.g. tires have been slashed.

It was noted that a stop sign is needed at the intersection of Adana, Kingston and Olmstead.

One member noted that the stop sign on the right-hand side of the road at the intersection of Howard and Upland is not visible due to it being obstructed by bushes. Another member responded that the homeowner is obligated to cut the bushes. It was decided that the homeowner should be notified of his obligation.

Another problem noted was the young people who smoke dope and drink beer in the Park. One possible solution is to erect "No Parking" signs around the triangle in question in order to prevent young people from stopping and parking.

**PROTECTED
EXHIBIT NO. 3**

**MINUTES OF THE
SUDBROOK CLUB
DEC. 15, 1992
PLACE: KATZENBERG'S**

Present:

Darragh Brady
John Leith-Tetrault

John Horsman
Janet Singerman

Liz Katzenberg
Jeff Smith

The meeting was called to order by John Horsman.

1. Minutes.

The Minutes were approved as corrected below.

Submitted by Jeff Smith re: 204 Sudbrook Lane.

The owners of 204 Sudbrook Lane were not granted all they requested with respect to zoning variances: the request for a reduction in front setback from 50 feet to 30 feet was denied, but it was reduced to 40 feet; the final backyard setback was not as requested; and more stringent sideyard setbacks were imposed.

2. Treasurer's Report:

Current balance =	\$6358.36
Dues	\$2710.00 (This is from a total of 246 houses which equals approximately 50% of the houses within the neighborhood's boundaries.
Newsletter deadline=	Jan.16,1993

3. Neighborhood Watch

Officer from Garrison Police district will come next month. J. L-T talked with Adele Kass re:Officer Right as to her non-communication. (Right's non-communication that is)

4. Traffic and Slowing it Down!

The issue of how to most effectively slow down traffic on our smaller streets was discussed. In the past Jack Zager had done a lot of work on finding out about speed bumps and should be consulted. The possibility was also raised that "Rumble Strips" as opposed to speed bumps might be feasible. DB volunteered to find out where one can get information on these traffic issues.

5. Innterim

A motion was made that the Sudbrook Club should write a letter to Paula Hollinger stating their approval for Innterim (a transitional housing project proposed for the St. Charles Convent on Sudbrook Lane). The letter would state that the approval is for the transitional housing aspect of the project only and not for the overnight shelter aspect that the County is interested in pushing through. The motion was seconded and voted on: Four in favor, one abstention.

6. Refoliation

The issue of how to get more trees planted in the Park and how to get the dead and dying trees taken out was discussed. If the trees are on the County's right-of-way (which must be verified by the State forester) they will put them on their list for removal. This may take anywhere from two months to a year.

It was proposed that the Sudbrook Club set up a system whereby:

1. the dead/dying trees are surveyed.
2. the property owners are notified and :
3. a package deal is offered whereby:
4. the homeowner agrees to replace the tree and to pay for its replacement.
5. Their check for some amount (\$125 to \$175) would start the process which would involve: the Sudbrook Club notifying the County to remove the tree, upon removal the Club buys the tree and arranges for it to be planted with a one year guarantee.

It was also discussed that the Club set up a Memorial tree fund whereby people can contribute money and new trees could be purchased. Perhaps memorial plaques could be installed by trees planted in this manner. Jeff Smith volunteered to write a blurb about this to go in the next newsletter.

7. Landmarks

The application is supposedly on the County Executive's desk awaiting his signature. From there it should go to the County Council for a hearing. We need to be in close contact with Mel Mintz's office with respect to addition/removal of boundaries.

8. Tree Lighting

The annual tree lighting was a success. Approximately 150 - 200 people showed up for cookies and cider on the Brady's front porch. A bill for \$27.93 for cider was submitted by Darragh Brady.

9. MTA Houses

John Harz
M. Anson and ~~J.L-T~~ had a meeting with Louis Goldstein. L. Goldstein actually went to see houses with M.A. and J.L-T. He loved all the houses and made lots of noise about their great condition and resale value (even though most of them are in pretty bad shape) MA and JL-T sent a letter to L. Goldstein re: facts of the houses. Paula Hollinger will write a letter in favor of the sale of the houses.

10. Liveability of Rental Units

Liveability Code: This code is to protect renters from poor conditions in rental housing. If you suspect a place may be in violation you can call the county, they will come in and check for code violations. It was discussed that we will wait until after the Landmarks application has been approved so that any destruction of historic detail that might be done to bring the houses into compliance with the code would come under the jurisdiction of the County Landmarks board.

PAGE THREE 12/15/92

11. Unregistered Vehicles

Many unregistered vehicles have been notice in the neighborhood. If you have one in your immediate vicinity it is possible to give a call to the county to have them ticket the vehicles.

THE MEETING WAS ADJOURNED AT 9:15.

Doug Reed brought design for kiosk to replace existing sign board on triangle and informed group that, according to his roommate, matching funds are available from state .

Meeting was called to order by John Horsman.

MINUTES ** Were handed out, read and approved.

TREASURERS REPORT & Financial Report from July 4th festivities were unavailable.

LANDMARKS ADVISORY BOARD ** Bob Hochberg reported:

1. SPLC needs a non-voting member from Club
2. They need \$100.00 appropriation for copying & misc. expenses. John H. will bring it up when budget is planned and suggested Bob talk to the new neighbor on Upland w/ a printing company.

Bob then recapped SPLC's first meeting on June 29th. The chairman is Mike Sotir, Secretary - Steve Brown. The first concern is the property at 719 Cliveden - demolition by neglect and the need to let the owner and tenants know of the guidelines for renovation. The commission is also compiling a list of available tradesmen who will work on houses in the Park. Jim English volunteered to be the non-voting member of the SPLC.

MTA HOUSES ** Melanie Anson talked to Nelson and was told that they received our letter and Agro wants to see the houses but also wants to bring construction people, so the date is still up in the air. Melanie asked for a meeting w/ Agro.

SUDBROOK MIDDLE SCHOOL ** Will be opened as a magnet school in '94 w/ concentration on Art, Science, Languages, Math. John L.T. recommends contacting the principal about the curriculum. John H. wants us to start looking at Milford Mill H.S. Mel Mintz suggested getting facts together about what percentage of high school kids go to private school vs. public school. Surveys will be sent out with Fall membership drive.

PLAYGROUND PROBLEMS ** Kingston's block captain reports of drug problems. Vandalism continues. John H. pointed out that formal complaints need to be made to the Parks Dept. John H. will contact them to see what can be done

BUSINESS IN THE PARK ** Complaints are being made concerning a tow truck business being operated out of a home. John H. will talk to Rick about the history of the problem, check w/ zoning board about regulations, then write to the owner of the business.

STREET LIGHTING ** John H. brought up installing street lights in the Park. He will find out the details on underground wiring and light posts in keeping with the aesthetic integrity of the Park.

Next meeting was decided for Sept. 21, 7:30 at the Lee's.

Meeting was adjourned.

Sudbrook Club Meeting
12-15-93
John Leith-Tetrault's
708 Cliveden

Meeting was called to order by John Horsman.

Minutes Minutes were read and approved.

Treasurers Report

Myra Lewis reported a checking account balance of:
\$6,626.74

Income: Membership Dues 310.00

Expenses: (Pikesville VFD, Baltimore Historical Trust, Annual Sales Tax, Photo
Copying costs) 190.00

We have had 210 responses to the membership drive.

Landmarks Advisory Board Jeff Smith reported that Mike Sotir is trying to set up a meeting with Raphaelli, Jeff S., Ed Brady, and himself. John McGrain (?) should be contacted to find out what steps should be taken and what the results would be if a complaint was filed on demolition by neglect in a historic district.

MTA Houses Nothing new to report

Message Board Nothing new to report

PCGC A new group may be interested in opening Pikes as a Cultural film place. The question of whether we would join the group or not will be discussed when we have more members in attendance. John H. suggested having an umbrella organization consisting of the approx. 8 - 10 K population from Villa Nova to Pikesville Twp. It will be discussed at the next meeting.

Water Mains The severity of water main breaks is being investigated by the county and they are in communication with the city about the problem.

Zoning Issues John H. reported that the Zoning Board can take action if someone (1) testifies about the complaint (2) writes a letter of formal complaint.

Traffic Adele told John H. to write to Dick Moore as a follow up. We need to know what options we can consider.

New Business Jeff Smith raised the issue of trees. The survival rate of the newly planted trees is almost 100% and spring planting may not be necessary. John L.T. suggested targeting areas that are a little bare. John H. can generate a list of those people who didn't respond to the survey last spring. Jeff will call the forester.

Meeting was adjourned.

Next meeting will be the 3rd Tues at Jeff Smith's.

Sudbrook Club Meeting
3-22-94
Melanie Anson's
1007 Windsor

PROCESSED
EXHIBIT NO. 6

Meeting was called to order by John Horsman.

Minutes Minutes from 12-15-93 were read and approved. This was the last meeting which had any significant attendance.

Treasurers Report

Checking Acct. Balance	\$6,396.05
Expenses as follows:	
Valentine Party	235.00
Christmas Electric Bill	64.51
Annual Sales Tax	57.00

Landmarks Advisory Board Jeff Smith reported that Roger Katzenberg has prepared a statement for residents affected by Landmarks. Raphaelli took house before the county Landmark Commission and seemingly got approval on verbally proposed repairs. John Horsman will contact McGrain about breakdown of communications.

MTA Houses Melanie Anson reports that there are no new developments

Message Board John H. Will pursue designs for new message board which should cost approximately \$1,000.00

Zoning Issues John H. reported that zoning laws are about to change, so we should hold off on any problems until the new laws take effect.

Treemendous Maryland Information was in newsletter but there was no response. It was suggested that a Fall planting would be a goal, after seeing how last year's saplings survive.

Nominating Committee Betsy Stellman, John Leith-Tetrault, and Melanie Anson volunteered to serve on committee. They will meet in April to form a slate.

New Business Joe Lewis has volunteered to maintain triangle over the summer. Flower order must be in by mid April if we are doing a flower sale this year.

Next Meeting Tues, April 19th at Betsy Stellman's

MICROFILMED

TERRENCE B. SHERIDAN
Chief of Police



Baltimore County Police
Headquarters
700 East Joppa Road
Towson, Maryland 21286-5501

(410) 887-2214
Fax (410) 821-8887

Integrity . . . Fairness . . . Service

Mr. Richard L. Ottenheimer
Sudbrook Park Community

Mr. Ottenheimer this transmittal is to confirm our conversations regarding the Jer Dan tow truck parked within your community. Please be advised that I did in fact meet with Mr. Rubenstein to discuss the violations involving the truck. In conversation I offered several suggestions to assist Mr Rubenstein with his dilemma, one of which was to find him a place to park the vehicle in close proximity to his home. If I can be of any further assistance please feel free to contact me at 887-1604.

Sincerely;

A handwritten signature in black ink, appearing to read "Paul Ciepiela", with a date "2/20/93" written to the right.

Officer Paul Ciepiela
Baltimore County Police

PROTECTED
EXHIBIT NO. 7

ENCLOSURE



97-52-A

3 exhibits

Pot #5



3-11-87	
DATE	
38582	
MILEAGE DONE	
43582	
MILEAGE DUE	
E-08	
DOCK SPACE	

INDIANAPOLIS, INDIANA			
VEHICLE IDENTIFICATION NO. 4GDLH4N2482108194			
VEHICLE TYPE: TRUCK			
THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY STANDARDS IN EFFECT IN			
April, 1986			
(MONTH, YEAR)			
VEHICLE IDENTIFICATION NO. 4GDLH4N2482108194			
VEHICLE TYPE: TRUCK			
GAWR (FR) 2765			
GAWR (RR) 6215			
TIRE 625/70R19.5			
RIMS 19.5X6.00			
PSA/P1 (GOLD) 000			

DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT

Located at 111 W. Chesapeake Avenue, County Office Building, Room 106,
Towson, Maryland 21204

BALTIMORE COUNTY

vs.

DR. REX A. FROST

Defendant

HEARING DATE: AUGUST 5, 1997 ISSUE DATE: JUNE 23, 1997 EXPIRATION DATE: JULY 8, 1997

REQUEST FOR SERVICE

Please serve the attached process on the person shown.

ORDER FOR SERVICE

You are hereby commanded to serve the attached process and to make your return promptly on this Order if served, and if you are unable to serve, you are to make your return on this Order and return the original process no later than the last day following the termination of the validity of the process.

PROOF OF SERVICE

I CERTIFY

___ that I served a Citation and all other papers filed with it by ___ restricted delivery mail, return card attached

☒ that I served by personal delivery to D.R. REX FROST (name)

___ on 6-28 at 9:03 AM
title date time

Description of defendant: Race 2 Sex M Ht. 6-02

Wt. 200 Age ___ Other ___

☒ and left with him a copy of the citation and all other papers filed with it.

___ I posted the premises at ___

___ I was unable to serve because ___

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information and belief and do further affirm I am a competent person over 18 years of age and not a party to the case.

6-28-97
Date

DENNIS RIOUX
Signature

Code Inspection +
Title
ENFORCEMENT
OFFICER

9:03 AM
Time

111 W CHESAPEAKE AVE
Address

887-3717
Telephone number

MANUFACTURED BY
 DATE
 MANUFACTURED BY
 CORP.
 DATE
 4.00
 10000
 GAWN TRONT
 1.00 10.00
 10.00 10.00
 GAWN INTERMEDIATE LTD.
 GAWN IN. DATE 121

IN CONFIDENCY IN THE
 FIRST MOTOR VEHICLE
 1905



DATE: 08/04/97

ASSESSMENT TAXPAYER SERVICE

AS

TIME: 16:03:51

PROPERTY NO. DIST GROUP CLASS OCC. HIST

15 22 350450 15 3-1 04-00 N NO

DEL FM

02/

FROST REX A

DESC-1.. IMPS

DESC-2.. NORTH POINT VILLAGE

54 WINDEMERE PKWY

PREMISE. 07970 ST CLAIR

LA

00000-

PHOENIX

MD 21131-2425 FORMER OWNER: JONES BETTY LOU

-----FCV-----			-----TRANSFER DATA-----		-----PROPERTY ID-----	
	PRIOR	PROPOSED	NUMBER.....	76464	LOT.....	4-
LAND:	18,000	18,000	DATE.....	06/05/87	BLOCK.....	C
IMPV:	41,250	45,760	PURCHASE PRICE..	33,000	SECTION..	2
TOTL:	59,250	63,760	GROUND RENT.....	1,500	PLAT.....	
PREF:	0	0	DEED REF LIBR..	07560	BOOK.....	0020
CURT:	0	0	DEED REF FOLIO..	265	FOLIO.....	0060
DATE:	10/93	10/96	YEAR BUILT.....		MAP.....	0104
			NEW CONSTR YR...		GRID.....	0008
					PARCEL...	0039
TAXABLE BASIS						
97/98	24,300	LOT WIDTH..	16.00	SD 56		.00
96/97	23,700	LOT DEPTH..	100.00	WB 56		.00
95/96	23,700	LAND AREA..	1600.000 S	SS		225.36
ENTER-INQUIRY1 PA1-PRINT PF4-MENU PFS-QUIT				WD		46.65

Baltimore County, Maryland
Department of Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204
887-3353

In the Matter of

Civil Citation No. 97-1923

Dr. Rex Frost

7970 St. Claire Lane

FINAL ORDER OF THE DIRECTOR

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before the Hearing Officer for the Department of Permits and Development Management on August 5, 1997, for a hearing on a citation under the Investment Property Act for failing to maintain exterior construction, including broken doors and windows, that exhibit flaking or worn exterior paint; for failing to remove trash, rubbish and other debris on the property located at 7970 St. Claire Lane in Baltimore County.

Leonard Wasilewski, the code enforcement inspector, received a complaint that there was a business being operated at this address. He visited the property on November 14 and December 12, 1996, March 5, March 26, April 10, and April 16, 1997. He found the rear yard was covered with wood and wood debris. He sent a letter to Dr. Frost, the owner of the property as shown by the property assessment records, on 11/15/96 to remove all wood and cease operating the business at the residence. He visited the property again in December, 1996 and attempted to determine what the occupant at that location was going to do with all the wood since there was no chimney. Mr. Wasilewski was advised that they were going to put in a wood burning stove. Dr. Frost wrote to the occupant that he was not authorizing him to install a wood stove at 7970 St. Claire Lane.

Dr. Frost stated that he was not the owner of the property because there was a unrecorded written agreement by the occupant to purchase the property by paying a monthly amount to be applied to the purchase price. Dr. Frost claims that he is the mortgagee and not the title holder of the property. He stated that he cannot remove the wood and junk, trash and debris without trespassing on the occupant's property. He also stated that he had completely fixed up the property in June of 1996, and then entered the purchase-lease




Baltimore County, Maryland
Department of Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204
887-3353

agreement with the current occupant. He produced bills showing that he painted, purchased and installed all new windows and a door for the property, which has been repaired. The inspector stated that it appears that the window trim has been painted over without scraping the old flaking paint, and there is unpainted wood displayed at the tops of the windows.

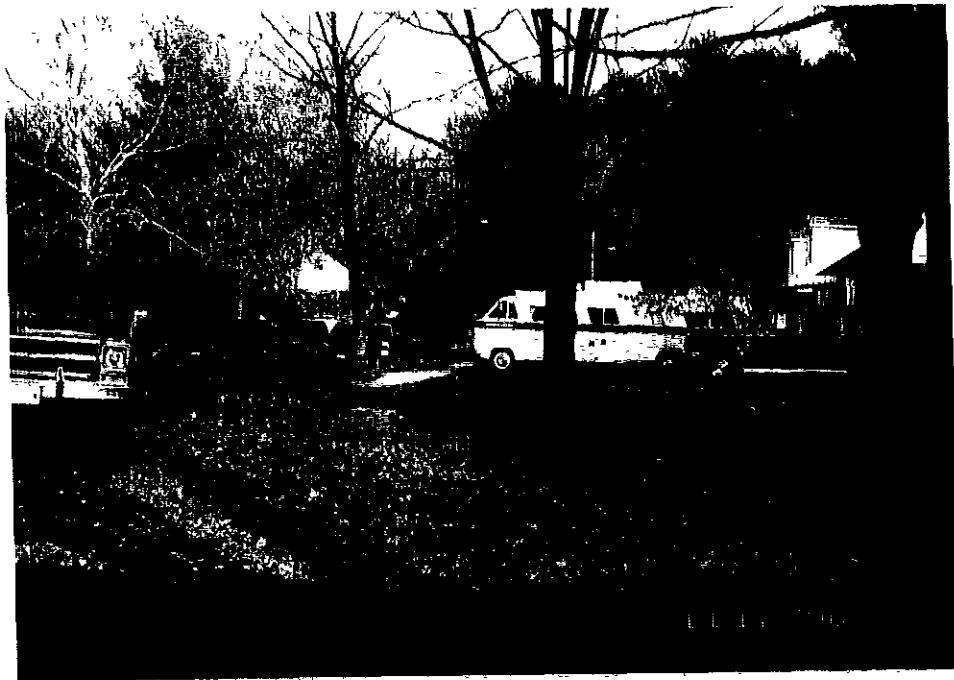
I find from the evidence that Dr. Frost is the owner of the property, as title never passed under the agreement to purchase. It is obvious that he is the owner by reason of the letter he sent to the occupant denying him the right to install a wood burning stove. It is the finding of the hearing officer that the violations under Sections 7-70(a)(1)g and 7-70(a)(2) of the Investment Property Act have been substantiated, that the property still exhibits trash, rubbish and other debris and the windows with flaking paint and exposed wood, and in consideration that there has been some attempt to repair some of the violations, it is this 11 day of August, 1997, ORDERED that the civil penalty assessed for these violations, is and shall be in the amount of \$1200.

IT IS FURTHER ORDERED, that said civil penalty imposed be reduced to \$500 on condition that Dr. Frost correct the remaining violations within 30 days from the date of this order. This time period may be extended for good cause shown. The inspector will monitor the property to insure that the violation is corrected. If the violation is not corrected within the 30 day time period or any extension thereof the penalty imposed shall be in the total amount of \$1200.

Signed:


Stanley J. Scaparo
Hearing Officer

Pursuant to County Council Bill 39-97, Section 1-7(g)(1) (effective June 6, 1997), an appeal to the Baltimore County Board of Appeals may be taken within ten days (10) days after the date of a final Order. Section 1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of \$150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.



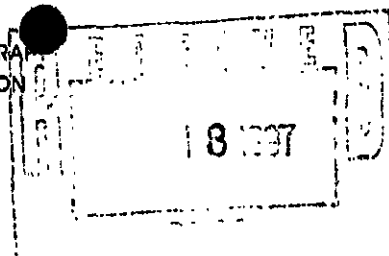
BY APPOINTMENT
PHOENIX OFFICE
54 WINDMERE PARKWAY
PHOENIX, MD 21131

ESSEX OFFICES
322 N. MARLYN AVENUE
BALTIMORE, MD 21221

6 RYAN FROST WAY
BALTIMORE, MD 21221

DR. REX A. FROST
PRACTICE LIMITED TO PSYCHOTHERAPY
AND DIAGNOSTIC CONSULTATION

54 WINDMERE PARKWAY
PHOENIX, MD. 21131



592-29
686-70
592-55
682-44

FAX 592-36

August 14, 1997

Director
Department of Permits and Development Mgt
Bureau of Code Enforcement
111 W. Chesapeake Avenue
Towson, Maryland 21204

Please enter an appeal to the Board of Appeals regarding the attached case. The grounds for the appeal is that there are several errors in the finding of fact by the Hearing Officer and that this violation notice and citation specify nothing about operating a business or removing trash or debris, which is part of a separate violation notice at the same address and which is scheduled to be heard in the District Court of Maryland. Enclosed is the filing fee of \$150.00. I will be out of the country from August 15th through August 22nd, but will be available after that date. Please notify me by regular mail of the time and place of hearing on the appeal.

Thank you for your cooperation.

Sincerely yours,

Rex A. Frost

mj



In the Matter of

Civil Citation No. 97-1923

Dr. Rex Frost

7970 St. Claire Lane

FINAL ORDER OF THE DIRECTOR

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before the Hearing Officer for the Department of Permits and Development Management on August 5, 1997, for a hearing on a citation under the Investment Property Act for failing to maintain exterior construction, including broken doors and windows, that exhibit flaking or worn exterior paint; for failing to remove trash, rubbish and other debris on the property located at 7970 St. Claire Lane in Baltimore County.

Leonard Wasilewski, the code enforcement inspector, received a complaint that there was a business being operated at this address. He visited the property on November 14 and December 12, 1996, March 5, March 26, April 10, and April 16, 1997. He found the rear yard was covered with wood and wood debris. He sent a letter to Dr. Frost, the owner of the property as shown by the property assessment records, on 11/15/96 to remove all wood and cease operating the business at the residence. He visited the property again in December, 1996 and attempted to determine what the occupant at that location was going to do with all the wood since there was no chimney. Mr. Wasilewski was advised that they were going to put in a wood burning stove. Dr. Frost wrote to the occupant that he was not authorizing him to install a wood stove at 7970 St. Claire Lane.

Dr. Frost stated that he was not the owner of the property because there was a unrecorded written agreement by the occupant to purchase the property by paying a monthly amount to be applied to the purchase price. Dr. Frost claims that he is the mortgagee and not the title holder of the property. He stated that he cannot remove the wood and junk, trash and debris without trespassing on the occupant's property. He also stated that he had completely fixed up the property in June of 1996, and then entered the purchase-lease







WC

6/16/98
10 '4

Jeffrey Smith

410-484-1164 6/24/98

re: 97-52-A

called twice,
left message,
no response.

He is with Sudbrook
Comm. Assoc. They would
like exhibits (photos)
back. Either he or
Melonie Anson will
call on Wed.

97-52-A
Protestants'
Exhibit #1



Clothing and accessory stores;
 Commercial film production, subject to Section 435;
 → [Bill No. 57, 1990.]
 Dairy products store;
 Department store;
 Dressmaking and millinery establishments;
 Drug store;
 Dry cleaning establishment, coin-operated, or retail
 store plant, etc. (as regulated by the Baltimore
 County Building Code, Baltimore County Fire, Health
 and Police Regulations); [Bills No. 142, 1962; No.
 85, 1967.]
 Dry cleaning pick-up station;
 Duplicating service business; [Bill No. 117, 1983.]
 Electrical contractors and appliance repair shop; [Bills
 No. 58, 1957; No. 85, 1967.]
 Florist;
 Food store;
 Fortune telling establishments; [Bill No. 124, 1978.]
 Fuel service stations in a planned shopping center or
 drive-in cluster only, subject to Section 405; {Bill
 No. 172, 1993.}
 {Funeral establishments;} {Deleted by Bill No. 43,
 1970.}}
 Furniture and upholstery stores;
 Garden center; {Bill No. 41, 1992.}
 Gift shop;
 Hand laundry employing not more than five persons;
 Hardware store;
 Helistop; [Bill No. 85, 1967.]
 Hobby shop;
 Household appliance store;
 Jewelry store;
 Laundromat or self-service laundry;
 Laundry-pick-up station;
 Medical clinic; [Bill No. 37, 1988.]
 Parking lot; [Resolution, November 21, 1956; Bill No.
 85, 1967.]
 Pet shop;
 Photographic studio;
 Picnic grove; [Resolution, November 21, 1956; Bill No.
 85, 1967.]
 Public utility service center;
 Radio shop;
 Radio studio;
 Rail passenger stations, subject to Section 434; [Bill
 No. 91, 1990.]
 Residential art salon; [Bill No. 85, 1967.]
 Shoe repair shop;
 Social clubs and fraternal organizations;
 Sporting goods store;
 Stationery store;



MACROFILMED

1. Assisted living facilities, Class A. The residence shall be located on a lot that will meet all of the density requirements for its size and zone, except that if there will be more than six residents, the following table shall apply: {Bill No. 188, 1993.}

ZONE

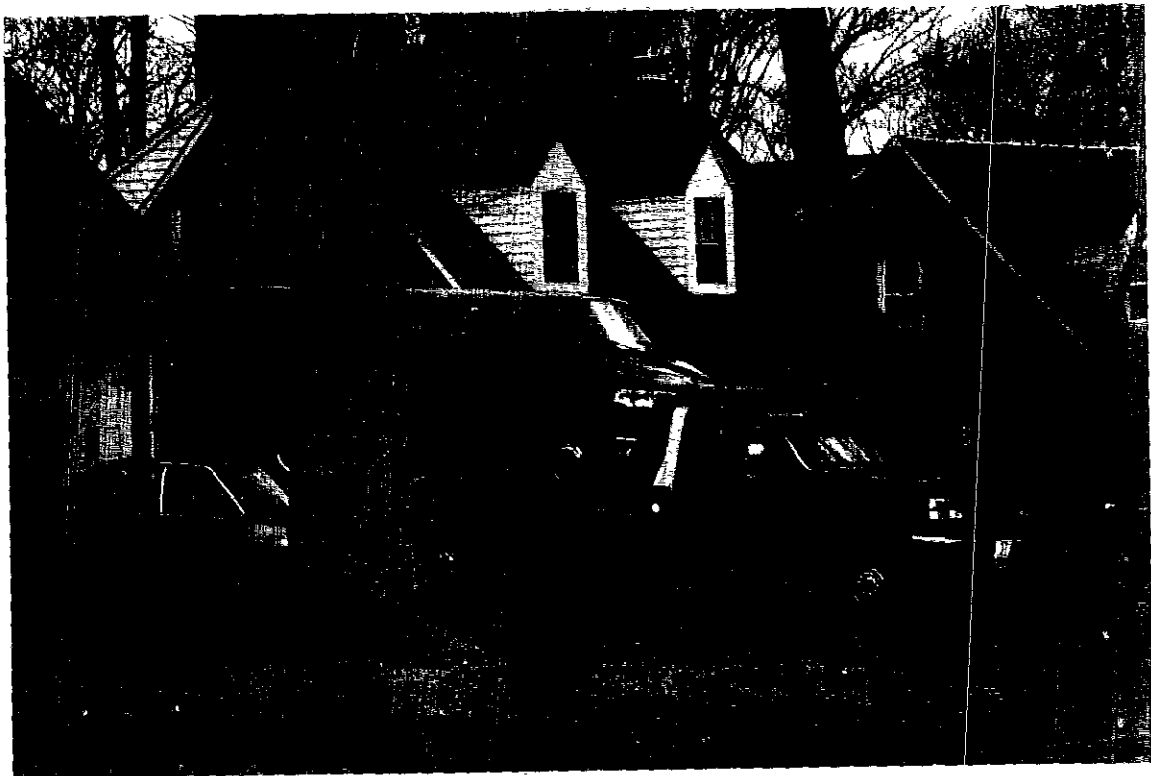
SQ. FEET MIN. LOT SIZE	R.C.5/D.R.1	D.R.2	D.R.3.5	D.R.5.5	D.R.10.5/16
Seven Residents	50,000	25,000	12,500	10,000	9,000
Each Additional Resident	5,000	3,800	2,000	1,500	1,200

{Bill No. 188, 1993.}

2. Assisted living facilities, Class B. The minimum lot area shall be one acre or 2,000 square feet per resident, whichever is greater. {Bill No. 188, 1993.}

B. Performance standards. {Bill No. 188, 1993.}

1. Standards for Class A and Class B assisted living facilities: {Bill No. 188, 1993.}
 - a. Signs are permitted, subject to Section 450. {Bill No. 89, 1997.
 - b. Off-street parking shall be provided in accordance with Section 409 and subject to the following conditions, but no parking structure shall be permitted, except for a residential garage, as defined in Section 101. {Bill No. 188, 1993.}
 - (1) Parking shall be at least 10 feet from the property line, except that if the property line abuts an alley, no setback is required provided that the alley does not abut the front or rear yard of a residentially-used property. This requirement shall not apply to spaces existing before the effective date of Bill No. 188-93. {Bill No. 188, 1993.}



1. Assisted living facilities, Class A. The residence shall be located on a lot that will meet all of the density requirements for its size and zone, except that if there will be more than six residents, the following table shall apply: {Bill No. 188, 1993.}

ZONE

SQ. FEET MIN. LOT SIZE	R.C.5/D.R.1	D.R.2	D.R.3.5	D.R.5.5	D.R.10.5/16
Seven Residents	50,000	25,000	12,500	10,000	9,000
Each Additional Resident	5,000	3,800	2,000	1,500	1,200

{Bill No. 188, 1993.}

2. Assisted living facilities, Class B. The minimum lot area shall be one acre or 2,000 square feet per resident, whichever is greater. {Bill No. 188, 1993.}

B. Performance standards. {Bill No. 188, 1993.}

1. Standards for Class A and Class B assisted living facilities: {Bill No. 188, 1993.}
 - a. Signs are permitted, subject to Section 450. {Bill No. 89, 1997.
 - b. Off-street parking shall be provided in accordance with Section 409 and subject to the following conditions, but no parking structure shall be permitted, except for a residential garage, as defined in Section 101. {Bill No. 188, 1993.}
 - (1) Parking shall be at least 10 feet from the property line, except that if the property line abuts an alley, no setback is required provided that the alley does not abut the front or rear yard of a residentially-used property. This requirement shall not apply to spaces existing before the effective date of Bill No. 188-93. {Bill No. 188, 1993.}



- (2) Parking and delivery areas shall be located in the side or rear only. This requirement shall not apply to parking spaces existing before the effective date of Bill No. 188-93. {Bill No. 188, 1993.}

- c. (1) Assisted living facilities, Class A, which involves change to the exterior of the building or reconstruction after the building has been destroyed, is subject to review for compatibility of the proposed changes in relation to existing structures in the immediate vicinity.

- (a) At the time of application for a building permit, plans or drawings of the building, sufficient to determine compatibility, and photographs representative of the vicinity shall be submitted to the department of permits and development management (PDM).

- (b) PDM shall notify the director of the office of planning and zoning, who may make, within 15 days of the request, written recommendations concerning the compatibility of the proposed changes with regard to: major divisions or architectural rhythm of facades; roof design and treatment; and materials and colors and other aspects of facade texture or appearance.

- (c) The director of PDM may approve, disapprove, or modify the building permit based on the recommendations, if any, of the office of planning and zoning.

- (2) Enclosure of the porch of a house or the addition of an exterior stairway to the side or rear of a building does not constitute a change to the exterior for purposes of this paragraph.



Mail For
Roslyn Y. Eubanks - ZADM

09/17/97 15:21:52

TO

User ID
ZA028

Address
ZADM

FROM

User ID
ZA001

Address
ZADM

SUBJECT
REFERENCE
AUTHOR

ACTION DUE
DATE

00/00/00



MICROFILMED

BALTIMORE COUNTY, MARYLAND
CITATION FOR CIVIL CODE ENFORCEMENT VIOLATION
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-3352

NAME OF PERSON(S) CHARGED: DR. REX A. FROST

CURRENT ADDRESS IN FULL: 54 WINDEMERE PARKWAY PHOENIX, MARYLAND 21131

OWNER (X) OR OCCUPANT () RELATED CITATIONS :

IT IS FORMALLY CHARGED BY BALTIMORE COUNTY THAT THE ABOVE NAMED PERSON(S) DID VIOLATE THE PROVISIONS OF THE BALTIMORE COUNTY CODE OR CODE OF BALTIMORE COUNTY REGULATIONS AS FOLLOWS:

SECTION NUMBER(S) VIOLATED: INVESTMENT PROPERTY ACT, SECTION 7-70(a)(1)& 7-70(a)(2)

NATURE OF VIOLATION: USE OF PROPERTY ZONED N/A TO COMMIT THE FOLLOWING:

1. FAILURE TO MAINTAIN EXTERIOR CONSTRUCTION, INCLUDING BUT NOT LIMITED TO BROKEN DOORS AND WINDOWS THAT EXHIBIT FLAKING OR WORN EXTERIOR PAINT. 2. FAILURE TO REMOVE TRASH, RUBBISH AND OTHER DEBRIS.

LOCATION AND DATE(S) OF VIOLATION: 7970 ST. CLAIRE LANE BALTIMORE, MARYLAND 21222
NOVEMBER 14, 1996, DECEMBER 12, 1996, MARCH 5, 1997, MARCH 26, 1997,
APRIL 10, 1997 AND APRIL 16, 1997

TO RESPOND TO THE ABOVE CHARGE(S) LODGED AGAINST YOU, YOU MUST CHOOSE ONE OF THE OPTIONS BELOW:

1) PURSUANT TO SECTION 1-8, BALTIMORE COUNTY CODE, A PENALTY OF \$2400 HAS BEEN ASSESSED AS A RESULT OF THE VIOLATIONS CITED HEREIN. YOU MUST PAY THIS PENALTY BY CHECK OR MONEY ORDER PAYABLE TO THE DIRECTOR OF FINANCE, BALTIMORE COUNTY, MARYLAND, BY RETURNING A COPY OF THIS CITATION ALONG WITH THE PAYMENT TO: DIRECTOR, PERMITS AND DEVELOPMENT MANAGEMENT, 111 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204.

2) IF YOU SHOULD CONTEST THIS CITATION OR PROPOSED ASSESSMENT OF PENALTY, YOU MUST FILE A WRITTEN REQUEST FOR A QUASI-JUDICIAL HEARING BEFORE THE CODE OFFICIAL OR DESIGNEE WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE OF THIS CITATION. HOWEVER, A HEARING ON YOUR CITATION HAS BEEN SCHEDULED FOR JUNE 26, 1997 AT 9:00 A.M. IN ROOM 106.

3) THE HEARING WILL BE CANCELED IF YOU SHOULD ELECT TO PAY THE ASSESSED PENALTY OR IF YOU SHOULD FAIL TO REQUEST A HEARING IN WRITING WITHIN THE TIME REQUIRED. FAILURE TO CONTEST THE CITATION OR PROPOSED ASSESSMENT OF PENALTY, IF ANY, BY EITHER NOT PAYING THE PENALTY OR BY NOT REQUESTING A QUASI-JUDICIAL HEARING, SHALL RESULT IN THE CITATION AND ITS PENALTY BECOMING A FINAL ORDER OF THE CODE OFFICIAL.

4) FAILURE TO PAY THE ASSESSED PENALTY SHALL CONSTITUTE A LIEN ON THE PROPERTY OWNED BY THE PERSON FOUND TO BE IN VIOLATION AND SHALL BE COLLECTIBLE IN THE SAME MANNER AND TO THE SAME EXTENT AS TAXES.

I DO SOLEMNLY AFFIRM THAT THE CONTENTS STATED ABOVE ARE CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

DATE May 12, 1997

Leonard Wasilewski
OFFICE OF CODE ENFORCEMENT REPRESENTATIVE

BASED ON THE STATEMENT OF LEONARD WASILEWSKI, THIS CITATION IS HEREBY ISSUED THIS 12TH DAY OF MAY, 1997.

CITATION MUST BE SERVED BY MAY 27, 1997.

DETACH AND SEND IN THE INFORMATION BELOW TO: DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVENUE, ROOM 111
TOWSON, MARYLAND 21204

CITATION NO. 97-1923

NOTICE OF INTENTION TO STAND TRIAL

I HEREBY ELECT TO STAND TRIAL BEFORE THE CODE OFFICIAL OR DESIGNEE FOR THE VIOLATION(S) CHARGED ON THE ABOVE CITATION.

DATE _____ SIGNATURE _____

ADDRESS _____



10/10/77

BALTIMORE COUNTY, MARYLAND
CITATION FOR CIVIL CODE ENFORCEMENT VIOLATION
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-3382

NAME OF PERSON(S) CHARGED: DR. REX A. FROST

CURRENT ADDRESS IN FULL: 54 WINDEMERE PARKWAY PHOENIX, MARYLAND 21131

OWNER (X) OR OCCUPANT () RELATED CITATIONS :

IT IS FORMALLY CHARGED BY BALTIMORE COUNTY THAT THE ABOVE NAMED PERSON(S) DID VIOLATE THE PROVISIONS OF THE BALTIMORE COUNTY CODE OR CODE OF BALTIMORE COUNTY REGULATIONS AS FOLLOWS:

SECTION NUMBER(S) VIOLATED: INVESTMENT PROPERTY ACT, SECTION 7-70(a)(1)g; 7-70(a)(2)

NATURE OF VIOLATION: USE OF PROPERTY ZONED N/A TO COMMIT THE FOLLOWING:

1. FAILURE TO MAINTAIN EXTERIOR CONSTRUCTION, INCLUDING BUT NOT LIMITED TO BROKEN DOORS AND WINDOWS THAT EXHIBIT FLAKING OR WORN EXTERIOR PAINT. 2. FAILURE TO REMOVE TRASH, RUBBISH AND OTHER DEBRIS.

LOCATION AND DATE(S) OF VIOLATION: 7870 ST. CLAIRE LANE BALTIMORE, MARYLAND 21222
NOVEMBER 14, 1996, DECEMBER 12, 1996, MARCH 5, 1997, MARCH 26, 1997,
APRIL 10, 1997 AND APRIL 16, 1997

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1) PURSUANT TO SECTION 1-8, BALTIMORE COUNTY CODE, A PENALTY OF \$2400 HAS BEEN ASSESSED AS A RESULT OF THE VIOLATIONS CITED HEREIN. YOU MUST PAY THIS PENALTY BY CHECK OR MONEY ORDER PAYABLE TO THE DIRECTOR OF FINANCE, BALTIMORE COUNTY, MARYLAND, BY RETURNING A COPY OF THIS CITATION ALONG WITH THE PAYMENT TO: DIRECTOR, PERMITS AND DEVELOPMENT MANAGEMENT, 111 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204.

2) IF YOU SHOULD CONTEST THIS CITATION OR PROPOSED ASSESSMENT OF PENALTY, YOU MUST FILE A WRITTEN REQUEST FOR A QUASI-JUDICIAL HEARING BEFORE THE CODE OFFICIAL OR DESIGNEE WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE OF THIS CITATION. HOWEVER, A HEARING ON YOUR CITATION HAS BEEN SCHEDULED FOR JUNE 29, 1997 AT 9:00 A.M. IN ROOM 108.

3) THE HEARING WILL BE CANCELED IF YOU SHOULD ELECT TO PAY THE ASSESSED PENALTY OR IF YOU SHOULD FAIL TO REQUEST A HEARING IN WRITING WITHIN THE TIME REQUIRED. FAILURE TO CONTEST THE CITATION OR PROPOSED ASSESSMENT OF PENALTY, IF ANY, BY EITHER NOT PAYING THE PENALTY OR BY NOT REQUESTING A QUASI-JUDICIAL HEARING, SHALL RESULT IN THE CITATION AND ITS PENALTY BECOMING A FINAL ORDER OF THE CODE OFFICIAL.

4) FAILURE TO PAY THE ASSESSED PENALTY SHALL CONSTITUTE A LIEN ON THE PROPERTY OWNED BY THE PERSON FOUND TO BE IN VIOLATION AND SHALL BE COLLECTIBLE IN THE SAME MANNER AND TO THE SAME EXTENT AS TAXES.

I DO SOLEMNLY AFFIRM THAT THE CONTENTS STATED ABOVE ARE CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

DATE May 12, 1997

Leonard Wasilewski
OFFICE OF CODE ENFORCEMENT REPRESENTATIVE

BASED ON THE STATEMENT OF LEONARD WASILEWSKI, THIS CITATION IS HEREBY ISSUED THIS 42TH DAY OF MAY, 1997.

CITATION MUST BE SERVED BY MAY 27, 1997

23th June

DETACH AND SEND IN THE INFORMATION BELOW TO: DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVENUE, ROOM 111
TOWSON, MARYLAND 21204

CITATION NO. 97-1923

NOTICE OF INTENTION TO STAND TRIAL

I HEREBY ELECT TO STAND TRIAL BEFORE THE CODE OFFICIAL OR DESIGNEE FOR THE VIOLATION(S) CHARGED ON THE ABOVE CITATION.

DATE _____ SIGNATURE _____

ADDRESS _____



Soundex Street	Name	City	Hgt County	Wgt State	Race	Sex	DOB Zip
F623734051760 54 WINDEMERE PKWY	REX ALLEN FROST	PHOENIX	6-02 BA	200 MD	2	M	100244 21131

>>> INTERROGATION COMPLETE; REX A FROST

<<<
<PAGING ENDED>



HOWSON, MARYLAND 21204

1-31-81

R

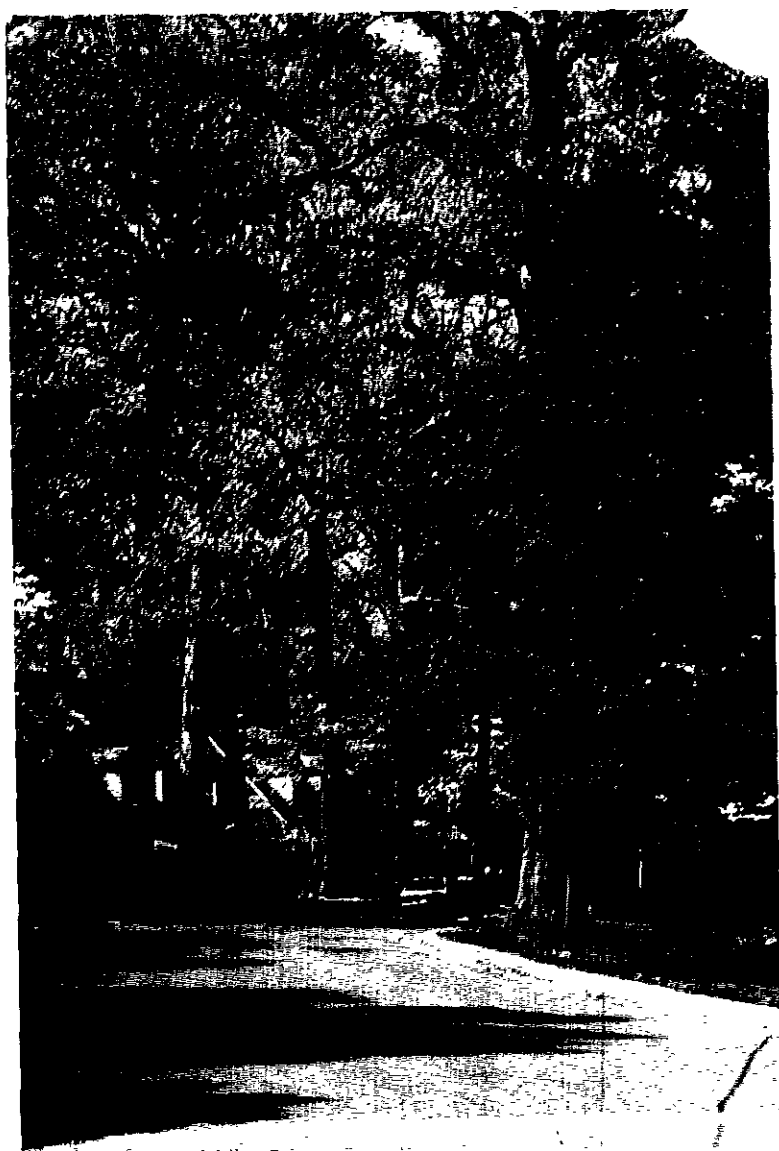
SIGNATURE

ADDRESS

6

RECEIVED
JUN 16 1997

[illegible]



BY APPOINTMENT
PHOENIX OFFICE
54 WINDEMERE PARKWAY
PHOENIX, MD 21131

ESSEX OFFICES
322 N. MARLYN AVENUE
BALTIMORE, MD 21221

6 RYAN FROST WAY
BALTIMORE, MD 21221

DR. REX A. FROST
PRACTICE LIMITED TO PSYCHOTHERAPY
AND DIAGNOSTIC CONSULTATION

54 WINDEMERE PARKWAY
PHOENIX, MD. 21131

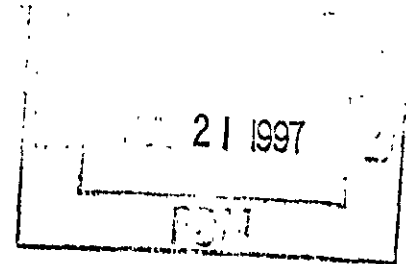
592-2967
686-7028
592-5588
682-4441

FAX 592-3645

July 18, 1997

Director of Permits and Development Mgt.
Department of Permits and Development Mgt
Bureau of Code Enforcement
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Citation No. 97-1923
7970 St. Claire Lane



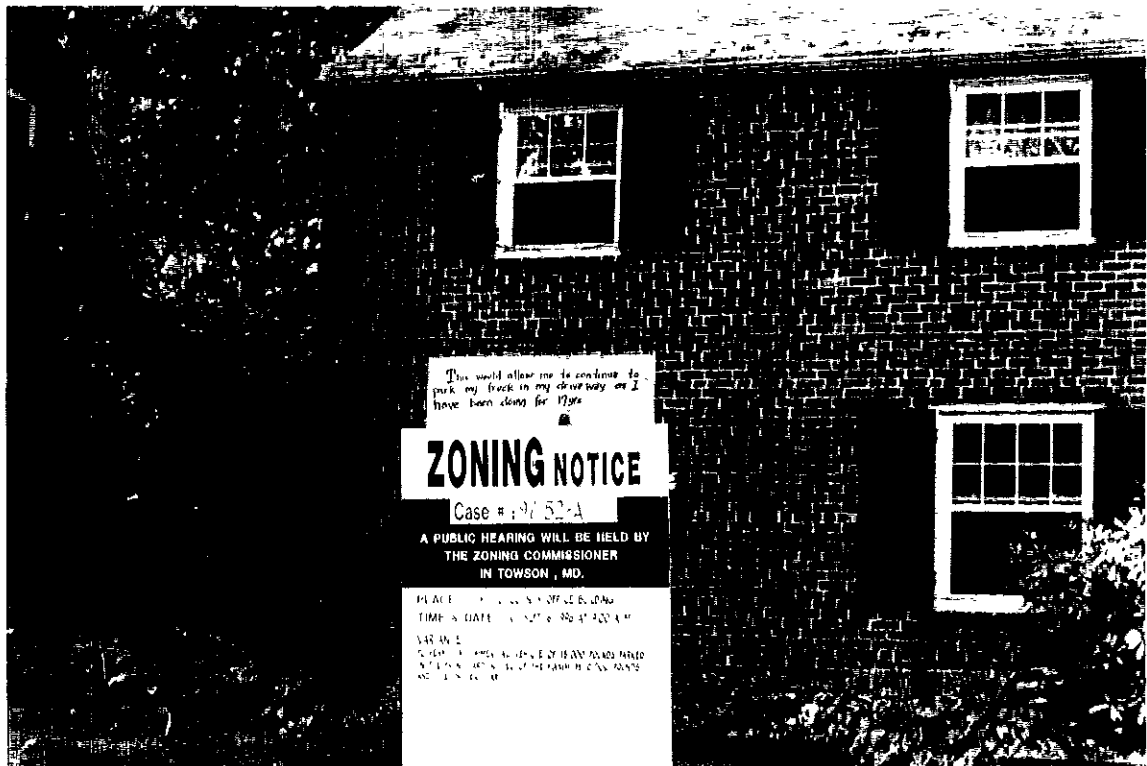
A hearing has been scheduled on the above citation for August 5, 1997. However, a District Court case for the same address on virtually the same charges is scheduled for August 20, 1997. Since the same defense strategy will be used in both cases, I would like to postpone the hearing until after the District Court case is heard. Please let me hear from you about this.

Thank you for your cooperation.

Sincerely yours,

Rex A. Frost

mj



**BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMO**

DATE: July 23, 1997

TO: Dr. Rex Frost

FROM: Inspector Wasilewski
Code Inspections and Enforcement

RE: Case Nos. C-97/1923
7970 St. Claire Lane

Please be advised that your request for a postponement of the above-referenced case has been denied. It will be necessary for you to attend your hearing on August 5, 1997 at 9:00 a. m. in Room 106 in the Baltimore County Office Building at 111 West Chesapeake Avenue.

If you should have any questions please feel free to call me at (410) 887-3351.

8-5-97
Len W.

701 Cliveden Road
Baltimore, MD 21208
September 5, 1986

BY FAX: 687-1824

Lawrence E. Schmidt
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse - Suite 112
400 Washington Avenue
Towson, MD 21204

Re: Petition for Variance - Case No. 87-52-A (Item 45)
(Jake Rubinstein, Petitioner)

Dear Commissioner Schmidt:

We are residents of Sudbrook Park and are writing to express our opposition to the variance requested by Mr. Rubinstein who lives at 902 Windsor Road. Sudbrook Park is an historic, residential community. Mr. Rubinstein's Jerr-Dann tow truck is not only illegal under zoning laws but is an eyesore. It is long past time that he find appropriate parking for it in a non-residential area.

Sudbrook Park has been buffeted by many intrusions over the years, from the subway to threatened new development. As an older area of Baltimore County and as part of a Community Conservation area, it is especially important to retain the very qualities that drew residents to Sudbrook Park in the first place. These include its history, its narrow curvilinear streets and its tranquil, park-setting - in sum, its character as a residential area. If this variance is granted, it would most assuredly open the door to other such requests, thus destroying those aspects that make Sudbrook Park such a delightful place to live and raise children.

As citizens and taxpayers, we count on the zoning process to uphold the laws that have been passed to maintain the clear separation of prohibited commercial and residential uses. We urge you to deny the variance that Mr. Rubinstein is requesting.

Sincerely,

Karen + Steve Brown
Karen and Steve Brown

706 Cliveden Road
Baltimore, Md. 21208
September 5, 1996

Lawrence F. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Bldg., Rm. 312
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Variance - Case No. 97-02-0 (Jake Rubenstein,
Petitioner)

Dear Commissioner Schmidt:

I have been a resident of Sudbrook Park for fifteen years, and I am writing to express my opposition to the above named request for variance. Our neighborhood's association and residents have worked very hard to maintain the beautiful historic and residential community that we are and have been for one hundred years.

The Petitioner should not be allowed to park a commercial vehicle, the Jerry-Dan tow truck in Sudbrook Park. If a variance were granted, it could set a precedent for the requesting and/or granting of other variances which would completely destroy the uniqueness of this community, one which is listed on the National Register of Historic Places and designated a Baltimore County Landmark District.

I urge you to consider what is in the best interests for Sudbrook Park and deny this request for variance. Thank you for allowing me to voice my opinion.

Sincerely,

Myra Lewis

Myra Lewis

108 Chestnut Road
Baltimore, MD 21204
September 5, 1996

Samuel E. Delaney,
Zoning Commission
Office of Planning and Zoning
Old Courthouse Building - Room 112
100 East Lexington Avenue
Baltimore, MD 21204

RE: Petition for Variance - Case No. 97-50-A
(John Robertson, Petitioner)

Dear Commissioner Delaney:

As residents of Ashcroft Park, my husband and I have practiced the principles of good citizenship. We have endeavored to encourage those rights given us, to practice the advantages of actively participating in our community, and to make efforts to maintain the dignity of our neighborhood, in particular, we have worked hard to ensure the achievement of the goal.

It has very much appeared to the general appearance of the area. Not only will the large, attractive structure continue to be an eyesore, but it will also be a visual nuisance that as commercial operations is permitted in our neighborhood. We want to return Ashcroft Park to a residential neighborhood.

Please help and work with us to ensure that our special historic district stay close to its original character.

Sincerely,

Patricia Smith Delaney

445017-1048

This Deed, made this 15th day of July

in the year one thousand nine hundred and twenty seven by and between

JOHN EZEKIEL POSTA and MANTONIA S. POSTA his wife,

for and to the use, benefit and behoof of the first part, and

KENNETH ROSE and JOHN L. ROSE, his wife,

of the second part.

WITNESSETH, That in consideration of the sum of FIVE THOUSAND DOLLARS (\$5,000.00) and

other good and valuable consideration, the receipt of which is hereby acknowledged,

the said Parties of the First Part

do hereby convey to the said Parties of the Second Part, as Tenants by the Entireties,

all that certain lot or parcel of land, situate in the County of Prince George's

County, State of Maryland, and being more particularly described as follows, to-wit:

That certain lot or parcel of land, situate in the County of Prince George's, State of Maryland

and described as follows, to-wit:

BEGINNING AT THE SAME on the Northernmost corner of a certain lot or parcel of land on the distance of 150 feet more or less as measured along the Northernmost side of a certain road from the northernmost corner of a certain lot or parcel of land and running thence North 85 degrees 30 minutes East bearing 22, 217.93 feet to Lot No. 9, Section 1 on said plat then North 15 degrees 15 minutes 30 seconds East bearing on said Lot No. 9 and also along Lot No. 10 on said Section 1 on said Plat 79.40 feet to Lot No. 20 of Section 1 on said plat then South 88 degrees 15 minutes 17 seconds East bearing on said Lot No. 10 232.3 feet to the place of beginning. Being known and designated as 92C Subdivided road.

BEING the same lot or parcel of land as was sold by Deed of September 2, 1963 and recorded among

15-59-1-1-59

To Have and To Hold the land described in the foregoing instrument, together with the rights, ways, waters, privileges, appurtenances and advantages thereto in anywise appertaining.

To Have and To Hold the land described in the foregoing instrument, together with the rights, ways, waters, privileges, appurtenances and advantages thereto in anywise appertaining, unto the parties of the second part, or to their heirs, assigns, their executors, and unto the survivors of them, if more than one, or to their personal representatives, and assigns forever.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the respect hereby granted; and that they will execute such further instruments as the same in law require.

WITNESS the hands and seals of the said parties of the first part this 15th day of January, 1959.

John Joseph Lopez

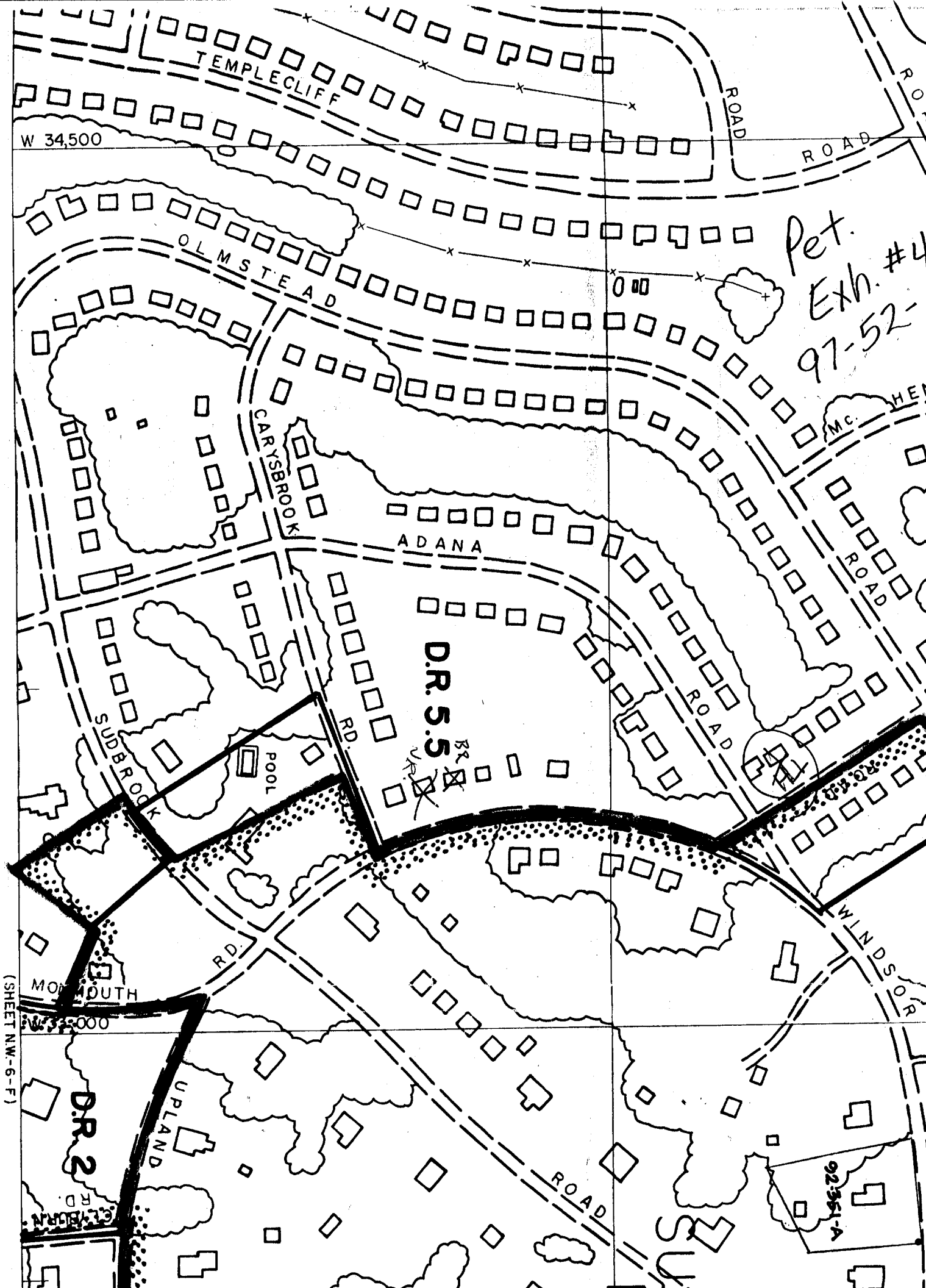
John Joseph Lopez (SEAL)
JOHN JOSEPH LOPEZ

Manuela M. Lopez (SEAL)
MANUELA M. LOPEZ, his wife

STATE OF MARYLAND, Baltimore County, Maryland.
I HEREBY CERTIFY, That on this 15th day of January, 1959, at the year one thousand nine hundred and fifty nine, before me, the subscriber, a Notary Public in the State of Maryland, personally appeared JOHN JOSEPH LOPEZ and MANUELA M. LOPEZ, his wife, known to me (or satisfactorily proved) to be the persons whose names and signature subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained, and as my official duties and under the laws of the State of Maryland require me to do.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

BALTIMORE COUN



Neighborhood Profile

In Sudbrook Park
they treasure trees,
freedom from crime

By BETH REINHARD
SPECIAL TO THE SUN

It too frequently happens that a single owner, acting within the structural letter of the law, materially ignores the nature of adjoining property, either by construction of undesirable buildings or objectionable use of those already erected. To prevent the possibility of such a misfortune, the company has adopted restrictions as to the character, location and occupancy of buildings.

So reads an 1890 brochure promoting the first home sales in Sudbrook Park.

As one of the first planned communities in Maryland, Sudbrook Park established deed restrictions on setbacks and lot size that laid the foundation for modern zoning ordinances.

More than a century later, the 204-acre residential community west of Pikesville is committed to promoting the



BARBARA HADDOCK TAYLOR: SUN STAFF
Sudbrook stroll: Len and Irma Frank, who are co-presidents of the Sudbrook Park Community Association, take a stroll through their neighborhood.

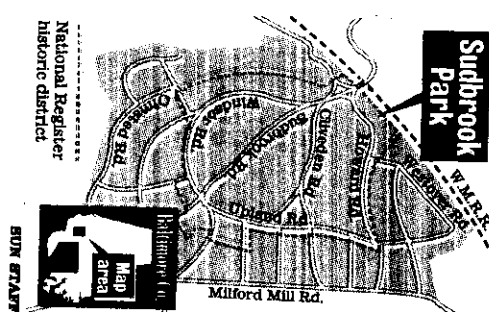
charm and serenity envisioned by its legendary architect, Frederick Law Olmsted Sr.

Sudbrook Park's neighborhood association has re-

ceived a \$9,900 grant from the Maryland Humanities Council to publish two books — one by Melanie Anson on the community's history, the other by Beryl Frank on com-

munity life — and organize an exhibit and a symposium. The community also is promoting itself and trying to raise additional money to un-

[See Neighborhood, 21]



Sudbrook Park

Population: 560 households
Commuting time to downtown Baltimore: 25 minutes
Public schools: Bedford Elementary, Pikesville Middle, Sudbrook Magnet Middle and Milford Mill Academy
Shopping: Pikesville shopping centers, Owings Mills Mall

ZIP code: 21208

Average price of a single-family home: \$126,400*

*Based on 24 sales through Mid-Atlantic Real Estate Information Technologies' multiple listing service during the past 12 months.

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Historical Soc
"Olmsted's
Friday, Oct. 18 an
Featured in the ex
photographs of the orig
maps and historical art
Frederick Law Olmsted,
was a co-designer of his
City's Central Park. He was asked
design a suburban village on 85
acres of land in Pikesville.
Park — nine cottages, a hotel, and an
abundance of trees designed to create
a natural haven.
After more than a century of
changes, Sudbrook Park remains an
historically important community.
The Maryland Historical Society
has planned a symposium, reception
and a walking tour on Sunday, Oct.
20 at 2 p.m. to celebrate the exhibit.
For more information, call the Balti-
more County Historical Trust at 832-
1812.

Tree-lighting highlights the season



The holiday season brings another traditional seasonal event to Sudbrook Park: the annual Christmas tree-lighting.

Lighting, and her father going door-to-door to collect donations, as well as the "50-foot" fire when discarded trees were set ablaze. Dorothy Diehl, the third resident on Adana Road in 1940, says that recollections of the tree lighting, tree burning and festive house are still among her grown daughter's "favorite memories."

While the judging of decorations, the tree-burning and the holiday dinners are past, the annual tree-lighting remains one of Sudbrook Park's cherished traditions.

Santa still arrives amidst the clanging of bells. It is a night to gather with friends and neighbors, enjoy hot cider and cookies, contribute donations for the needy, sing carols and watch as Sudbrook Park's welcoming evergreen is set aglow with its multitude of white lights. This year, the crowd gathered on the porch of Darragh and Ed Brady for refreshments.

Whichever holidays you celebrate at this time of year, may they be joyful and the start or continuation of a meaningful tradition.

► The Sudbrook/Olmsted Symposium and Exhibit are now successfully completed. About 175 people attended the symposium, and many more, in four weeks, viewed the exhibit at the Maryland Historical Society.

In addition to eliciting positive comments, the Nov. 10 symposium reunited numerous former and present Sudbrook Park residents. One Windsor Road house boasted four "generations" of former residents in attendance, who had lived in the house between 1915 and 1996. Cumulatively, that added up to a lot of memories! Attendees traded reminiscences at the beautiful post-symposium reception that was co-chaired by Sudbrook's own "Martha Stewarts," Janet Landay and Joe Anne Bauman. As with other events of this magnitude, many people worked behind the scenes to make these events so successful. Thanks to each and everyone who assisted and participated!

► Sudbrook Park has formed a Plan Advisory Group to work with Baltimore County on a comprehensive plan for the community. If you are interested in serving on a committee to assist with this effort, or if you have suggestions, problems or ideas to share, call me!

Forty years ago, the lighting ceremony included an invocation by the pastor of Millford Mill Church and special Christmas music featuring Millford Mill Church choruses. Santa Claus arrived with gifts for children. Residents food and clothing donations collected for distribution to the needy.

Under the auspices of "The Sudbrook Club," the holiday season for Sudbrook Park residents was active and memorable. There was the judging of outside decorations, a holiday pot luck dinner — held for many years at the old Ames Methodist Church and which often included carols by the then Millford Mill High School chorus. Jan. 6, was the "Twelfth Night Tree Burning." Two longtime Sudbrook Park residents, Dorothy Diehl and Sally Gracie, vividly recall residents "dragging" their Christmas trees to the Adana/Windsor and Kingston roads intersection for the event, which was always supervised by the fire department. (Later, tree-burning activities were moved to the McHenry playground; by the 1980s, the practice had ceased for environmental reasons).

Sally Gracie, who grew up in Sudbrook Park, remembers the small, cone candles children held as they sang carols at the tree

Celebrating a suburban genius

BY JEFF STIMPSON

Frederick Law Olmsted was more than just another neighborhood planner.

"He was really an artist," says Catherine Mahan, landscape architect and president of the Mt. Washington-based firm Mahan Rykiel Associates. "Now so many of his ideas are so commonplace, we think what's all the fuss about."

That fuss will be the center of two events in the next couple of weeks honoring Olmsted, designer of Pikesville's Sudbrook Park and such other national landmarks as Manhattan's Central Park, Chicago's Riverside community, and several national parks.

The symposium "Sudbrook and the Olmsted Tradition of Community Design in the Baltimore Area" will be at the Maryland Historical Society on Sunday, Nov. 10.

One of the symposium speakers, Mahan will examine Sudbrook as Olmsted's premier residential community in Maryland, and look at the principals behind the 1889 design.

This event is co-sponsored by Sudbrook Park Inc., The Maryland Historical Society, The Baltimore County Historical Trust, and friends of Maryland's Olmsted Parks and Landscapes.

The latter will also sponsor a two hour tour of Sudbrook Park on Saturday, Nov. 16.

The symposium kicks off an exhibit and the publishing of two books on Sudbrook Park, both spurred by recent grants.

New interest in Olmsted, however, has been spurred by America's new passion for suburbs.

"The sprawling American suburban development — it's really a disaster — is not the way suburban development was meant to be," notes Matthew Mosca, board member of Friends of Olmsted.

"Sudbrook Park is a superb example of what suburban development in the 19th Century was meant to be," he adds.

Olmsted — dubbed the founder of landscape architecture in post-Civil War America — designed

three residential communities that still stand. Sudbrook Park remains the local example of how the genius worked his curved streets, public greenery, set-back homes, and pure sight lines. Olmsted's eye on the landscape always favored tucking in a street, rather than inflicting a thoroughfare.

Before the native of Hartford, Conn., died in 1903, he had stamped 20th-century residential development coast-to-coast with his use of such details as greenways and traffic flow.

"The plans for Central Park were the first time pedestrian traffic and vehicular traffic were separated," Mahan says. "It's impossible to go anywhere in this country and not see his fingerprints."

His influence also spread to less popular points of suburban living. Namely, restrictions.

In Sudbrook, it was no pigs in yards. No more than two horses per family. No high hedges. The Gilded Age equivalent of no Christmas lights and no blue paint on the garage door.

But even Olmsted's design couldn't stem changes nearby. When the road near the one-lane bridge into the neighborhood was widened, Mahan notes, trees precious to the original plan were scraped away.

"People will change something, and it will really have an effect on the overall character," she says.

Maybe Baltimore County has figured out it has history in its lap. Early last month, the County Council recently enacted a resolution to form a community action plan and task force for Sudbrook Park. Olmsted would be proud of such vision.

The Nov. 10 symposium is free, and will be at the Maryland Historical Society, 201 W. Monument St., from 2 p.m. to 4:30 p.m. Reception follows. Call 685-3750.

For information on the Sudbrook tour of Nov. 16, call Janet Eckstein at 235-3378. The tour, which begins at 10 a.m., may be limited. Cost is \$7 for Friends members, \$10 for non-members.



PHOTO COURTESY STEWART MCLEAN

The work of landscape architect Frederick Law Olmsted is being featured in a tour of Sudbrook Park on Nov. 16 and an exhibit at the Maryland Historical Society now through Nov. 17. This home, in the 500 block of Sudbrook Road — shown here in this 1897 photo and picturing the owners, the Samuel Kemp Merrick family — is featured on the tour. Tour information, call 235-3378. Exhibit, 685-3750.

Sudbrook Park is one for the books

[Neighborhood, from Page 1L]

derwrite publication of the books through Sudbrook Park T-shirt sales.

"We don't want to be the only ones who understand that Olmsted was the foremost landscape architect," said Anson, who gave up law practice to concentrate on writing.

"Olmsted created national treasures."

Olmsted is probably best known for designing Central Park in New York.

In the Baltimore area, his sons planned Roland Park, Guilford, Homeland, Gibson Island and nearly 900 homes and a town square in Dundalk.

Olmsted trademarks include abundant trees, an entranceway bridge, green spaces, strict deed restrictions, mixed lot sizes and curvilinear streets.

"They aren't just curvy streets," said Anson, walking through the quiet neighborhood on a recent evening.

"They merge into the landscape and pull you on."

Oaks, poplars, elms, chestnuts and maple trees create the neighborhood's lush, woodsy feel.

The homes include shingled Dutch Colonials, others that are Queen Anne-styled with turrets, and post-World War II brick Colo-

secretary of State.)

After McHenry's death in 1888, a group of Boston and Philadelphia capitalists formed the Sudbrook Co. and worked with Olmsted on a development plan.

Sudbrook Park opened in 1890 with nine "cottages," ranging from a six-room house for \$3,000 to a 12-room house for \$6,000.

The Sudbrook Hotel, with its spacious porch, pool and tennis courts, was the social hub of the neighborhood until it burned down in 1926.

The Sudbrook Co. developed 20 percent of the community before it went out of business in 1910, hampered by slow sales and the absence of electric trolley lines into Baltimore.

Construction picked up during World War II, and hundreds of neo-Colonial style homes were built on Sudbrook Park's smaller lots.

The suburb built out around 1954.

Since then, the neighborhood has mobilized twice to fight proposed transportation projects that residents said would harm Sudbrook Park's open spaces.

In the 1960s, residents fought plans to build a six-lane highway through Sudbrook Park.

The state dropped the plan after an 80-acre portion of the neighborhood was designated as a national historic site in 1973.

In the late 1970s and early 1980s, residents fought the proposed alignment for the Mass Transit Administration's Metro line.

The MTA agreed to a compromise, building a cut-and-cover tunnel that left the entrance area of the Olmsted plan intact and clearing fewer trees.

In 1993 and 1995, parts of Sudbrook Park were added to the Baltimore County Landmarks Preservation Commission's list of historic sites.

Any construction in the neighborhood would require the commission's approval.

"That it's a historical district is a big contributor to the neighborhood's ambience," said Irma Frank, co-president of the neighborhood association and a resident since 1964.

"We're very proud of our community because it's a rarity."

Sudbrook exhibit

"Olmsted's Sudbrook," the exhibit funded by the Maryland Humanities Council, will run Oct. 18 to Nov. 17 at the Maryland Historical Society. It will include photographs of Frederick Law Olmsted Sr. and the community's first residents, copies of Olmsted's drawings, and town records from the turn of the century.

The symposium is planned for 2 p.m. to 4:30 p.m. Nov. 10, also at the historical society. Edward Orser, an American studies professor at the University of Maryland Baltimore County, will moderate the panel, which will include Olmsted scholar Charles Beveridge. Admission to the symposium is free.

Yet another way to learn about Sudbrook Park is a walking tour Oct. 20, sponsored by the neighborhood association and the Baltimore County Historical Trust. The tour costs \$8 for members and \$12 for nonmembers.

Information on historical society events may be obtained by calling 685-3750, and for those events and the walking tour, 832-1812.

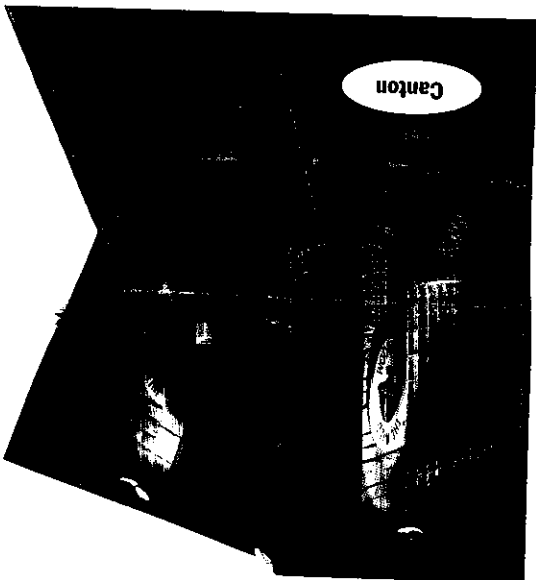
son, who has lived in Sudbrook Park since 1970, said she

Sudbrook Park. On Frederick Law Olmsted's devastating march across Maryland—no, wait, on his helpful visits during the 1890s—the Father of all Suburbs laid out the then-revolutionary Roland Park. He also dashed off plans for a summer resort northwest of town. Today, that resort is Sudbrook Park, an elegant neighborhood of frame and shingle houses conveniently located just inside the beltway near the I-795 spur. Now, how did Olmsted know they'd put the interstate there?

Downtown. This was a roughie: We couldn't find any place where it was easy to maneuver a wheelchair or a stroller. (One group of advocates makes sure bus-ness owners near Lauraville include wheelchair access when they do renovations, but that's a long-term fix.) Folks on wheels say the most accessible part of Baltimore is its oldest: downtown, between Key High-way and Mt. Vernon.

Rodgers' Forge. At longest, it's a 10-minute trudge through this brick-and-slate enclave to Rodgers' Forge Elementary or Dumbarton Middle School—"unless kids lag or fool around," says resident Honey Holston. Lollygagging must be a constant temptation, given the demographics in this neighborhood south of Towson. "There are always big gaggles of children," says Holston. Plus, no stop lights and no big roads until you get to Towson High, a slightly longer walk.

resident Betty Newcomb. At press time, the best house for gardeners was on the market, its owners ready for smaller digs. "It's great for someone who loves roses," because the one-acre lot is unusually sunny, confides Newcomb. "I tried to talk my husband into looking at it."



SIEVE RUBIN

PLACES TO LIVE

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BEST-LOVED ANCHORMAN REMEMBERED

Batman

THE

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BEST *fo* BALTIMORE



IN THE MATTER OF * BEFORE THE
THE APPLICATION OF * COUNTY BOARD OF APPEALS
JAKE RUBINSTEIN -Petitioner *
FOR A VARIANCE ON PROPERTY * OF
LOCATED ON THE WEST SIDE *
WINDSOR ROAD, 75' NORTH OF THE * BALTIMORE COUNTY
CENTERLINE OF CARYSBROOK ROAD * (902 WINDSOR ROAD)
2ND ELECTION DISTRICT * CASE NO. 97-52-A
3RD COUNCILMANIC DISTRICT * * * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County based on an appeal by the Appellant whereby the Petitioner is seeking relief from Section 431 of the Baltimore County Zoning Regulations (BCZR) to permit a commercial vehicle of 15,000 lbs. to be parked in the front yard of his property in lieu of the maximum permitted 10,000 lbs. in the side or rear yard. The Deputy Zoning Commissioner for Baltimore County had denied the variance relief requested by Order dated September 17, 1996.

The Appellant, Mr. Jake Rubinstein, testified in support of the variance. He indicated that he owned a 14,500 lb. roll-back towing vehicle used in his business that he normally parks on his driveway at the subject property, 902 Windsor Road, which is situated in the Sudbrook Park area of Baltimore County. He indicated that he operates his business essentially from his home; and was required to respond to his clients' towing requests as soon as they are received on his pager. He stated that he had resided at the Windsor Road property for approximately 18 years, and has always had a commercial vehicle parked on the premises. The Petitioner explained that, while Sudbrook Park is located in the National Register of Historic Districts, his property was slightly

Case No. 97-52-A Jake Rubinstein -Petitioner 2
outside the boundaries of that District. Mr. Rubinstein indicated that he had always attempted to park the truck in the driveway as infrequently as possible, since he works 10 to 12 hours a day. He stated that there were two residences across the street from his property; and described other homes in proximity to his. Petitioner's Exhibits No. 1, 2 and 3 were admitted into evidence, detailing deed descriptions of 904 Windsor Road, 906 Windsor Road, and 908 Windsor Road. All of these properties reflected the original sale prices of the various properties and subsequent indications that the various properties had increased in value from the original dates of purchase.

The Appellant did not believe that the on-site parking of his truck had had any detrimental effect on the immediate neighborhood by reason of the appreciation on the houses recently sold in the area as reflected on the deeds. Appellant's Exhibits No. 4 and 5 were admitted into evidence, reflecting the Petitioner's truck and other commercial vehicles and Mr. Rubinstein related the various comparisons between the various commercial vehicles. The Petitioner stated that he had made extensive efforts to find another area in which to park the tow truck, but had not been successful. Those areas that he had searched were either not secure for his truck or in sections of the County that were not safe for him to travel at night, or were not accessible during the times that he might be required to tow a disabled vehicle. Petitioner's Exhibit No. 6 was admitted reflecting various newspaper articles outlining the Sudbrook area as a "good place to

Case No. 97-52-A Jake Rubinstein -Petitioner 3
live." The Petitioner stated that the presence of his one tow truck could not have any serious impact on the livability aspects of Sudbrook Park.

On cross-examination by Mr. Holzer, the Petitioner admitted that he was aware of the limitations imposed by Baltimore County relative to his tow truck; and the 10,000 lb. GVW imposed on such vehicles. He stated that in September 1995 he had received a letter from the Sudbrook Community Association relative to the tow truck parking, which first objection went back as far as 1982. He stated that he had met with an officer of the Association, Mr. Frank, and realized he was in violation of the parking restriction. He again restated that he only owned this one vehicle but did have a trailer parked at Liberty and Millford Road, but it was not the safest area to park the towing vehicle. The Petitioner further described his property as perpendicular to Windsor Road with a small garage used for limited storage. He was never aware that he could apply for a variance, but admitted that the other houses in the area were basically of the same configuration as his, and that some garages had been converted to smaller, private residences. He stated that the size of his lots were about 6 feet to 8 feet to the property line; and, while his home was not in the Historic District, it was immediately on the other side of the street delineating the District. He restated that the truck was only present on the property at night and on Sundays, and also that he frequently worked a full six days a week. The Petitioner indicated that he did not perform any work on the vehicle on the premises and

Case No. 97-52-A Jake Rubinstein -Petitioner 4
that he was a member of a local towing organization, but he was not aware of any formal areas that had been designated by the towing organization on which vehicles such as his could be stored when not in use.

In closing, Petitioner stated that the towing vehicle was needed to be parked on his property essentially to provide clients' service when he was called on his pager, and he also felt that the vehicle would be more secure if he could monitor its presence on the property. Petitioner's Exhibits 7, 8 and 9 were submitted to the Board for consideration and represented comments from local neighbors in which they did not register any specific complaint about the towing vehicle being parked on Petitioner's property.

Mr. Thomas A. Hayden, 1004 Kingston Road, Pikesville, also testified on behalf of the Petitioner and indicated that his property was outside the Historic District and that he had moved to the area in 1991. He stated that he had purchased his home in the Sudbrook area for \$90,000 and was fully aware of the Petitioner's towing operation, and of the vehicle being parked on Petitioner's property. He indicated that he did not have any difficulty with the truck being there.

Mr. Brian B. Reynolds, 904 Windsor Road, the Petitioner's next-door neighbor also testified on behalf of the Petitioner and indicated he had purchased his home in the area because Sudbrook was fine residential area, and that he was aware of the commercial vehicle being parked on the premises, but that this did not affect his lifestyle.

Case No. 97-52-A Jake Rubinstein -Petitioner 5
Mr. Eddie James Jones, 7 Greenwood Road, also testified on behalf of the Appellant. He indicated he had purchased his home in 1980, was aware of the vehicle, and did not have any difficulty with it being parked in the residential area. On cross-examination, Mr. Jones indicated that he lived about 10 blocks away from the Petitioner's property, and that he uses the Petitioner's towing service.

That finalized the Appellant's case-in-chief, at which point in time Mr. Holzer moved for dismissal of the matter based on the fact that the Appellant had not produced any testimony or evidence that would enable this Board to grant the variance, in light of Section 301.7 of the Baltimore County Zoning Regulations; and also the variance guidelines that have been established by the Court of Special Appeals and the Court of Appeals in both Cromwell v. Ward and the Chesterhaven cases. The Board adjourned for approximately 15 minutes and reconvened, at which time the Motion to Dismiss was granted. Section 307.1 of the BCZR specifically states that a variance may only be granted in cases where special circumstances exist that are peculiar to the land or structure that is the subject of the variance request, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship; and, further, such a variance may be granted only if in strict harmony with the spirit and intent of the subject regulations, and only if it does not do injury to the public health, safety and general welfare.

In accordance with the decision rendered in the Cromwell v.

Case No. 97-52-A Jake Rubinstein -Petitioner 6
Ward case, it is first necessary that this Board establish that there are special circumstances that exist that are peculiar to the land or structure that is the subject of the variance request, and if that cannot be established by the testimony and evidence produced at the hearing, the Board is not required to probe any further relative to the practical difficulty or unreasonable hardship issue. It was very clear and conclusive to all the Board members that the Petitioner had failed to meet that burden and had not demonstrated in any way that either the land or structure was in any way different than any other dwelling or land areas in the immediate community; and, indeed, by the Petitioner's own admission, the housing in the general area of the subject property was basically the same configuration. Additionally, the Appellant indicated that the only reasons the vehicle was being parked on his property was essentially for his own convenience and security purposes, but there was no conclusive evidence that the vehicle could not be parked elsewhere.

For all of these reasons, the Board will deny the Appellant's Petition for Variance.

O R D E R

THEREFORE, IT IS THIS 17th day of April, 1997 by the County Board of Appeals of Baltimore County

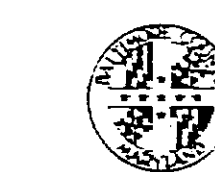
ORDERED that the request for variance from Section 431 of the Baltimore County Zoning Regulations (BCZR) to permit a commercial vehicle of 15,000 lbs. to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 lbs. in

Case No. 97-52-A Jake Rubinstein -Petitioner 7
the side or rear yard be and is hereby DENIED.
Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks
Charles L. Marks, Acting Chairman
Margaret Jorrell
Margaret Jorrell

S. Diane Levero
S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 17, 1997

Lee R. Jacobson, Esquire
JACOBSON & MYERSBERG, P.A.
Suite 320, 502 Washington Avenue
Towson, MD 21204-4523

RE: Case No. 97-52-A
Jake Rubinstein -Petitioner

Dear Mr. Jacobson:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Ruliff
Kathleen C. Bianco
Legal Administrator

encl.

cc: Jake Rubinstein
J. Carroll Holzer, Esquire
Jeffrey B. Smith
Melanie Anson
Leonard Frank
Richard L. Ottenheimer
Lee R. Jacobson, Esquire
People's Counsel for Baltimore County
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: August 1, 1996
TO: Gwen Stevens
Zoning Review
FROM: Jim Thompson
Code Inspections & Enforcement
RF: Item No. 45
902 Windsor Road
Petitioner-Rubinstein
3rd Election District

Please be advised that when the variance petition is scheduled for a public hearing the following parties must be notified:

1. Councilman Kevin Kamenez
2. Mr. Leonard Frank
612 Clivedon Road
Baltimore, Maryland 21209
3. Mrs. Earl D. Collins
727 Howard Avenue
Baltimore, Maryland 21208
4. Mr. Richard Ottenheimer
705 Carysbrook Road
Baltimore, Maryland 21208

At present, no active code enforcement violation case exist for this property.

JHT hek

- c: Councilman Kevin Kamenez
Mr. Leonard Frank
Mrs. Earl D. Collins
Mr. Richard Ottenheimer

PETITION PROBLEMS

#43 -- JRA

1. Petition form does not have section number or what they are requesting.
2. Petition form states zoning is "residential".

#45 -- MJK

1. Petition was not given copy of receipt. Still in folder.
2. No telephone number for legal owner.

#46 -- MJK

1. No telephone number for legal owner.

#48 -- JLL

1. Need authorization for attorney to sign for legal owner.

#49 -- MJK

1. No telephone number for legal owner.

#52 -- MJK

1. Receipt not given to petition - still in folder.
2. No name, address, etc. for legal owner.

August 7, 1996



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 24, 1996

Mr. Leonard Frank
612 Clivedon Road
Baltimore, MD 21208

RE: Petition for Zoning
Variance
W/S Windsor Rd., 75' N of
the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District
3rd Councilmanic District
Jake Rubinstein -
Petitioner
Case No. 97-52-A

Dear Mr. Frank:

Please be advised that an appeal of the above-referenced case was filed in this office on October 16, 1996 by Lee R. Jacobson, Esquire on behalf of Jake Rubinstein. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Director

AJ:rye

- c: Mr. Jeffrey B. Smith
Ms. Melanie Anson
Mr. Richard L. Ottenheimer
People's Counsel

Printed with Scanback by
the Department of Permit

APPEAL

Petition for Zoning Variance
W/S Windsor Road, 75' N of the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District - 3rd Councilmanic District
Jake Rubinstein - Petitioner
Case No. 97-52-A

Petition for Zoning Variance
Description of Property
Certificate of Posting
Certificate of Publication
Entry of Appearance of People's Counsel
Zoning Advisory Committee Comments
Protestants Sign-In Sheet

- Petitioners' Exhibit: 1 - Plat to Accompany Petition for Zoning Variance
- Protestants' Exhibits: 1 - Display with 24 Photographs (4-24-96) 384
2 - Sudbrook Club Board of Directors Meeting Letter dated August 26, 1981
3 - Minutes of the Sudbrook Club Meeting dated December 15, 1992
4 - Sudbrook Club Meeting Letter dated July 20, 1993
5 - Sudbrook Club Meeting Letter dated December 15, 1993
6 - Sudbrook Club Meeting Letter dated March 22, 1994
7 - Letter from Officer Paul Ciepiela, Baltimore County Police to Richard L. Ottenheimer

Petition of Support Signed by 23 People

28 Letters of Opposition

Deputy Zoning Commissioner's Order dated September 17, 1996 (Denied)

Notice of Appeal received on October 16, 1996 from Lee R. Jacobson, Esquire on behalf of Jake Rubinstein

- c: Mr. Jeffrey B. Smith, 607 Sudbrook Road, Baltimore, MD 21208
Ms. Melanie Anson, 1007 Windsor Road, Baltimore, MD 21208
Mr. Leonard Frank, 612 Clivedon Road, Baltimore, MD 21208
Mr. Richard L. Ottenheimer, Carysbrook Road, Baltimore, MD 21208
Mr. Jake Rubinstein, 902 Windsor Road, Baltimore, MD 21208
Lee R. Jacobson, Esquire, Jacobson & Myerberg, P.A., Suite 320, Nottingham Centre, 502 Washington Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

J. Carroll Holzer, Esquire
502 Washington Ave., Suite 502
Towson, MD 21204

Entered appearance on behalf of
Sudbrook Park, Inc. and individ-
uals Jeffrey B. Smith, Len
Frank, Richard Ottenheimer, and
Melanie Anson

Melanie Anson
486-6324
1007 Windsor Rd
Baltimore MD 21208
phone 486-6814



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILLO
Deputy People's Counsel

March 25, 1997

Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
902 Windsor Road, W/S Windsor, 75' N
of c/l Carysbrook Road, 2nd Election
District, 3rd Councilmanic
JAKE RUBINSTEIN, Petitioner
Case No.: 97-52-A
CBA Hearing Date: 3/26/97

Dear Chairman Schuetz:

This matter is scheduled for a hearing on Wednesday, March 26, 1997. The Petitioner seeks a variance from BCZR § 431 to park a commercial vehicle in a residential zone.

Our office has reviewed this case and is interested in this matter. We participated in three (3) cases before the CBA involving BCZR § 431 (In the Matter of Reinsfelder, Case No. 94-176-A; In the Matter of Malloy, Case No. 94-76-A; and In the Matter of Pickle, Case No. 94-374-A). In those cases, the CBA, correctly we believe, denied Petitioners' requests to park a commercial vehicle in a front yard driveway or parking pad. The CBA ruled that convenience and financial benefit are not considerations. The Reinsfelder case was appealed and the Circuit Court affirmed.

In the case at hand, it appears the citizens opposing the Petition are represented by counsel. Two of the Protestants are attorneys who participated in the Zoning Commissioner's hearing. For these reasons, our office will not participate in the hearing. We trust the CBA will apply the variance law under § 307 and *Cromwell v. Ward*.

Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
March 25, 1997
Page Two

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County
Carole S. Demillo
Carole S. Demillo
Deputy People's Counsel

PMZ/csf

cc: Lee R. Jacobson, Esq., 502 Washington Avenue, Suite 320,
Towson, MD 21204, attorney for Petitioner
(VIA FACSIMILE - (410) 828-7012)

J. Carroll Holzer, Esq., Holzer and Lee, 305 Washington
Avenue, Suite 502, Towson, MD 21204, attorney for Protestants
(VIA FACSIMILE - (410) 825-4923)

CBA.LTR/ZONE/XTTCAP

APPEAL

Petition for Zoning Variance
W/S Windsor Road, 75' N of the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District - 3rd Councilmanic District
Jake Rubinstein - Petitioner
Case No. 97-52-A

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Protestants Sign-In Sheet

Petitioners' Exhibit: 1 - Plat to Accompany Petition for Zoning Variance

Protestants' Exhibits: 1 - Display with 24 Photographs
2 - Sudbrook Club Board of Directors Meeting Letter dated August 26, 1981
3 - Minutes of the Sudbrook Club Meeting dated December 15, 1992
4 - Sudbrook Club Meeting Letter dated July 20, 1993
5 - Sudbrook Club Meeting Letter dated December 15, 1993
6 - Sudbrook Club Meeting Letter dated March 22, 1994
7 - Letter from Officer Paul Ciepiela, Baltimore County Police to Richard L. Ottenheimer

Petition of Support Signed by 23 People

28 Letters of Opposition

Deputy Zoning Commissioner's Order dated September 17, 1996 (Denied)

Notice of Appeal received on October 16, 1996 from Lee R. Jacobson, Esquire on behalf of Jake Rubinstein

- c: Mr. Jeffrey B. Smith, 607 Sudbrook Road, Baltimore, MD 21208
Ms. Melanie Anson, 1007 Windsor Road, Baltimore, MD 21208
Mr. Leonard Frank, 612 Clivedon Road, Baltimore, MD 21208
Mr. Richard L. Ottenheimer, Carysbrook Road, Baltimore, MD 21208
Mr. Jake Rubinstein, 902 Windsor Road, Baltimore, MD 21202
Lee R. Jacobson, Esquire, Jacobson & Myerberg, P.A., Suite 320, Nottingham Centre, 502 Washington Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

Case No. 97-52-A

VAR -To permit commercial vehicle of 15,000 lbs. parked in front yard.

9/17/96 -Deputy Zoning Commissioner's Order in which Petition for Variance was DENIED.

12/13/96 -Notice of Assignment for hearing scheduled for Wednesday, March 26, 1997 at 10:00 a.m. sent to following:

Counsel for Appellant /Petitioner: Lee R. Jacobson, Esquire
Appellant /Petitioner : Jake Rubinstein
Protestants : Jeffrey B. Smith
Melanie Anson
Leonard Frank
Richard L. Ottenheimer

People's Counsel for Baltimore County
Pat Keller Arnold Jablon, Director /PDM
Lawrence E. Schmidt Virginia W. Barnhart, Co Atty

3/26/97 -Hearing concluded before Board. At conclusion of Petitioner's case in chief, Mr. Holzer (Counsel for Protestants) moved for Dismissal; granted by CBA; order to be issued indicating granting of motion and denial of variance. (C.W.M.)

NORTH v. ST. MARTY'S COUNTY Md. 1175
Case 448 A21 175 Md.App. 1991
quarterly reports to Bar Counsel in the form directed by Bar Counsel.
4. Respondent is to pay costs in the amount of \$600.00, for which judgment in favor of the Attorney Grievance Commission of Maryland is entered.
5. Respondent is to file with Bar Counsel the required affidavit under Maryland Rule 8V10 a2.

2. Zoning and Planning 6-481
"Variance." If granted, permit use that is prohibited and presumed to be in conflict with ordinance.
See publication Words and Phrases for other judicial constructions and definitions.
3. Zoning and Planning 6-436
Applicant for variance bears burden of overcoming presumption that proposed use is questionable, to do so applicant must fully satisfy dictates of statute authorizing variance.
4. Zoning and Planning 6-463
Pure "area variance," as opposed to use variance, is permitted if strict compliance with regulations would result in practical difficulties or unreasonable hardship.
See publication Words and Phrases for other judicial constructions and definitions.
5. Zoning and Planning 6-458
Under provision of zoning code dealing with variances for use otherwise not authorized under county's critical area program for tidal and wetland areas, applicant for variance had to show unwarranted hardship, special features of site, special conditions and circumstances, and deprivation of rights enjoyed by others in neighborhood if application was not granted; additionally, applicant had to show that, if variance was granted, he would not receive special privilege, that variance request did not result from action of landowner, that request did not result from any condition relating to permitted or non-conforming buildings or uses on property, and that variance, if granted, would not have adverse environmental impacts.
6. Zoning and Planning 6-571
Chairman of critical area commission had standing to appeal issuance of variance by county board of appeals, provided that county board of appeals, provided that authority to do so was not withdrawn by Reversed.

Property owner sought variance to allow him to construct gazebo that was prohibited under county critical area program for wetlands and tidal areas. The county board of appeals granted variance, and chairman of critical area commission appealed. The Circuit Court for St. Mary's County, C. Clark Haley, J. affirmed, and chairman appealed. The Court of Special Appeals, Cathell, J., held that: (1) chairman had standing to appeal and right to appeal was unrestricted, and (2) evidence did not satisfy either "unique" aspect of variance provision or that unwarranted hardship would result if variance was denied.

1. Zoning and Planning 6-571
Chairman of critical area commission had standing to appeal issuance of variance by county board of appeals, provided that authority to do so was not withdrawn by

Copies For
Commissioner
3 decisions

424 Md. 651 ATLANTIC REPORTER, 2d SERIES
the court correctly directed Ms. Droncy to transfer the home in its 1992 Order; the court's finding of contempt in the 1994 Order, based on Ms. Droncy's failure to comply, was not an abuse of discretion.

III
[13] Ms. Droncy contends that even if the court did not err in finding that the term "real estate" encompassed the home, the court lacked the statutory authority to order her to transfer her interest in property, either as part of a divorce decree or in the enforcement thereof. Under Md.Fam.Law Code Ann., § 8-202(a) (1991), the court may determine ownership of disputed property when the court grants an absolute divorce, but the statute expressly denies the court the power to transfer property, other than money, as part of an award. See also, *Eline v. Eline*, 50 Md.App. 496, 703, 514 A.2d 884 (1992). At the same time, the court can merge the terms of a deed, agreement, or settlement made between the parties during the divorce as a part of the divorce decree. Md.Fam.Law Code Ann., § 8-106(a); *Goldberg v. Goldberg*, 280 Md. 204, 210 n. 6, 428 A.2d 469 (1981). Once the terms are so merged, the court has the power to enforce those terms using the contempt power. Md. Fam.Law Code Ann., § 8-106(a); Md.Rule 2-648; *Mendelson v. Mendelson*, 70 Md.App. 486, 497-98, 541 A.2d 1331 (1988).
Ms. Droncy relies on the case of *McAleer v. McAleer*, 298 Md. 820, 489 A.2d 1256 (1985) for the proposition that contempt may not be used to enforce a "property disposition award." In *McAleer*, the divorced wife sought to have her ex-husband held in contempt for his failure to pay the monetary award specified in the judgment of absolute divorce. The Court held that, unlike alimony, a monetary award in a divorce case constitutes a "debt," and as the Maryland Constitution, Art. III, § 38 forbids incarceration for the failure to pay a debt, contempt was not an available method of enforcement. *Id.* at 349-52, 489 A.2d 1256.
The Circuit Court, Baltimore County, Lawrence Handels, J., affirmed order of board of appeals granting height variance for accessory building already built by owner. Appeal was taken. The Court of Special Appeals, Cathell, J., held that: (1) no variance was appropriate where property was not shown to be unusual or unique from surrounding properties before variance based on practical difficulty or unreasonable hardship was sought; (2) landowner's self-created hardship arising from construction of accessory building before variance was sought was not grounds for grant; and (3) approval of

ing, was subject to warrantless search as it had all of its area fully enclosed, had all its windows intact, had all its lights in apparently functional condition, and was near a road.
102 Md.App. 491
David CROWWELL, et al.
v.
Arthur Thomas WARD, III.
No. 617, Sept. Term, 1994.
Court of Special Appeals of Maryland.
Decided Jan. 4, 1995.

552 Md. 653 ATLANTIC REPORTER, 2d SERIES
ly, and badly, informed Judge Cahill that he had "expected for Ms. Ferguson to be in court" without proffering any reason why he had the expectation.
In *Whack v. State*, 94 Md.App. 107, 117-18, 615 A.2d 1226 (1992), cert. denied, 380 Md. 155, 622 A.2d 1195 (1993), we opined:
We begin with the basic proposition, recently reiterated in *Burgess v. State*, 89 Md.App. 822, 688 A.2d 880 (1991), cert. denied, 385 Md. 619, 692 A.2d 710 (1992), that "[r]ulings on requests for continuances are within the sound discretion of the judge and will not be disturbed on appeal absent an abuse of that discretion." 89 Md.App. at 834, 688 A.2d 880 (citing *Bouchem v. State*, 71 Md.App. 38, 55, 523 A.2d 1033 (1987)). In *Wright v. State*, 70 Md.App. 616, 522 A.2d 401 (1987), we held:
To show such an abuse of discretion, the party who requests the continuance must show:
"(1) that he had a reasonable expectation of securing the evidence of the absent witness or witnesses within some reasonable time; (2) that the evidence was competent and material, and he believed that the case could not be fairly tried without it; and (3) that he had made diligent and proper efforts to secure the evidence."
First, Whack failed to demonstrate that he had a reasonable expectation of securing the evidence of the absent witness within some reasonable time. . . . Whack did not state that he knew or had reason to know of Sampson's whereabouts on the date of the suppression hearing, nor did Whack state that he knew or had reason to know the reason for Sampson's absence. Thus, the bald assertion that bringing Sampson to court would be a "simple" task for a sheriff's deputy, is insufficient to produce the requisite reasonable expectation that Whack could secure Sampson's testimony within a reasonable time.
....
Finally, Whack failed to demonstrate of record that he made diligent and proper efforts to secure Sampson's testimony. . . . (The record does not reflect that . . .

103 Md.App. 324
CHESTER HAVEN BEACH PARTNERSHIP
v.
BOARD OF APPEALS FOR QUEEN ANNE'S COUNTY.
No. 794, Sept. Term, 1994.
Court of Special Appeals of Maryland.
Feb. 9, 1995.

Property owner sought review of decision of County Board of Appeals denying requests for conditional use and for several variances in order to construct clustered units in residential area. The Circuit Court, Queen Anne's County, J. Owen Wise, J., affirmed, and property owner appealed. The Court of Special Appeals, Cathell, J., held that: (1) offer to build below density, if conditional use acceptable to environmental regulators is granted, does not satisfy require-

HOLZER & LEE
LAW OFFICES
J. CARROLL HOLZER, JR.
TOWSON, MD 21204
J. HENRY HOLZER, JR.
POTOMAC, MD 20854
TOWSON OFFICE
300 WASHINGTON AVENUE
SUITE 501
TOWSON, MD 21204
(410) 834-4901
FAX: (410) 874-4911
CARROLL COUNTY OFFICE
1115 LIBERTY ROAD
ELLSBURG, MD 21784
(410) 795-8516
FAX: (410) 795-5335

February 25, 1997
#6965

Baltimore County Board of Appeals
Robert Schuetz, Chairman
Old courthouse Room 49
400 Washington Avenue
Towson, Maryland 21204
ATTN: Karly Bianco

RE: Case No. 97-52 A In The Matter of Jake Rubenstein, Petitioner
(Petition for Variance Hearing Date March 26, 10:00 a.m.)

Dear Chairman Schuetz:
Please enter my appearance on behalf of the Sudbrook Park, Inc. and individuals Jeffrey B. Smith, Len Frank, Richard Offenheimer, and Melanie Anson in the above captioned matter.

From the Board's Notice, there appears to be a number of other interested citizens and neighbors who are currently listed as receiving notification of the Board's proceeding. I would respectfully request that the Board continue to notify those individuals in regard to all future Board matters.

Very truly yours,
J. Carroll Holzer
J. Carroll Holzer

JCH:alt
cc: Jeffrey Smith, et al.

C:\LETTERS\BOSCH\2174

LAW OFFICES
HOCHBERG, CHIARELLO & COSTELLO
332 EAST JORDAN ROAD
TOWSON, MARYLAND 21286-5403
TELEPHONE
(410) 849-8933
FAX: (410) 821-0774

January 23, 1997

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the matter of Jake Rubenstein
312 Windsor Road
26 Election, 16 Councilmanic
Hearings: March 26, 1997- 10:00 a.m.

Dear Sirs:
The above matter is before you on Mr. Rubenstein's Petition for Variance which was denied by Commissioner Schmidt.

I am writing to you in the above matter as a resident of Sudbrook Park for 17 years. During these years I have been active as an officer, Director, Committee member, Volunteer, attorney, and in every other way. I would like to help maintain our Community and its history. I currently serve as Chair of the Sudbrook Park Advisory Committee coordinating on Landmarks matters with the County's Landmark Commission. Sudbrook Park is a "village" like no other in Baltimore County, perhaps not even in the entire State.

I am well aware of the problems of Mr. Rubenstein and his tow truck at 312 Windsor Road., since I have to see it on my walks and rides thru the Park. It is one of our few ugly sights. We have been trying for more than a decade to get this owner to do something, to meet us halfway at least, in removing it from view. I personally made known to him the availability of garage space nearby; he apparently was not interested. His position was confrontational, combative, and "in your face." He has probably

Sudbrook Park, Inc.
RECEIVED
SEP - 5 1996
ZONING COMMISSIONER

September 3, 1996

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number 97-52A (Item 45)
Petitioner: Jake Rubenstein

Dear Commissioner Schmidt,
This mailing contains the documents listed below; they are all relevant to our community's expressed opposition to the granting of the variance requested by Mr. Rubenstein. We shall be grateful for your review of these items.

Very truly yours,
Leonard H. Frank
Co-President

(Note: Our organization's name was changed from Sudbrook Club, Inc. to Sudbrook Park, Inc. In February of 1996)

1. Letter to Commissioner Schmidt from Leonard Frank for the Board of Sudbrook Park, Inc.
2. Letter to Commissioner Schmidt from Jenny Lee Sataloff, a resident of Sudbrook Park.
3. Letter to Commissioner Schmidt from George H. Bowers, a resident of Sudbrook Park.
4. Letter to Commissioner Schmidt from Bayard Z. Hochberg, a resident of Sudbrook Park.
5. Letter to Commissioner Schmidt from Dottie Collins, a resident of Sudbrook Park.
6. Letter to Commissioner Schmidt from John Horsman, a resident of Sudbrook Park.
7. Minutes of The Sudbrook Club's Board Meeting of August 26, 1981 with a section on "Tow Truck." Mr. Rubenstein was present at this meeting.
8. Letter from the Board of the Sudbrook Club to Mr. Rubenstein, September 6, 1995.
9. Letter from the Board of the Sudbrook Club to Mr. Rubenstein, September 23, 1995.
10. Letter from the Board of the Sudbrook Club to Mr. Arnold Jablon, October 24, 1995.
11. Letter to Commissioner Schmidt from Richard Offenheimer, Resident
12. Letter to Commissioner Schmidt from Ellen Kahn Zager, Resident

Sudbrook Park, Inc.

September 1, 1996

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number 97-52-A (Item 45)
Petitioner: Jake Rubenstein

Dear Commissioner Schmidt,

Sudbrook Park, Inc. is the neighborhood association of the 500+ homes constituting Sudbrook Park, a residential community designed by Frederick Law Olmsted Sr. in 1889. A portion of Sudbrook Park is entered on the National Register of Historic Places and is designated a Baltimore County Landmark District. Mr. Rubenstein's property, incidentally, immediately borders the National Register section.

We oppose the request for a variance at 902 Windsor Road to "...permit a commercial vehicle of 15,000 pounds [to be] parked in the front yard..."

Accompanying this letter are copies of various correspondence on the specific subject at issue: The continuing and flagrant parking and use of tow-trucks and, in recent years, of a Jerr-Dan "come-a-long" truck in the front yard driveway of the subject property, solely for commercial purposes.

Over the years, residents of the community have complained to the Board about this flooding of Baltimore County zoning and other relevant laws which protect the integrity of residential communities. Despite periodic requests to Mr. Rubenstein that he arrange for his truck to be garaged or parked elsewhere he has persisted in the clear violation of these laws. Indeed, on a number of occasions his Jerr-Dan has been parked with vehicle(s) on its deck.

We do, most respectfully, urge that the request for a variance in this regard be denied.

Very truly yours,
Leonard H. Frank
Co-President,
Sudbrook Park, Inc.

cc: Jeffrey B. Smith, Civic Vice President

From the Desk of :

Richard L. Orrenheimer
705 Carybrook Road, Baltimore, Maryland 21208-4748
(410) 486-2010

September 5, 1996

Case Number 97-52-A (Item 45)
902 Windsor Road
Owner: Jake Rubenstein

Commissioner Lawrence Schmidt
Baltimore County
Department of Permits and
Development Management

Dear Commissioner Schmidt:

I must oppose Mr. Rubenstein's variance request because I feel that the Jerr Dan tow truck is an eye soar and has no place in a residential community.

Prior to the neighborhood association reporting the zoning violation last year, Mr. Rubenstein regularly parked his Jerr Dan tow truck in his driveway with a vehicle on top and usually one or two vehicles parked on his front lawn. Soon after Mr. Rubenstein received a copy of the complaint sent to the County Zoning Office, the cars on the front lawn disappeared and he began parking the Jerr Dan on the street. I fear if given a variance he would resume using his front lawn for commercial purposes as a parking lot for towed vehicles.

On occasion, the Jerr Dan tow truck has pulled a flatbed trailer to carry an additional two or three vehicles, which would never fit on Mr. Rubenstein's driveway, or even across his front yard. The combined length of the Jerr Dan and trailer was so long he had to park it around the corner on Carybrook Road.

Mr. Rubenstein has posted the official zoning request sign, but has since attached a second handwritten sign saying he just wants to continue parking his truck in his yard as he has done for the past 17 years. This sign is an admission to violating Baltimore County zoning regulations. My understanding is when the neighborhood association took action in the past, he has alternated between parking on the street when reported to zoning, and in his driveway when reported to the police for a traffic violation.

Sudbrook Park is a beautiful old residential community with large trees and narrow curvy streets. It is a Baltimore County Historic Landmarks District and is on The National Register of Historic Places. The tow truck has a negative impact on the entire community because it detracts from the beauty and unique character of Sudbrook Park.

Please do not grant this variance.

Sincerely,
Richard L. Orrenheimer
Richard L. Orrenheimer
Park Resident

ekz&co

September 4, 1996

Lawrence E. Schmidt
Zoning Commissioner
Office of Planning and Zoning
Room 112
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Variance **Case No. 97-52-A** Jake Rubenstein, petitioner

Dear Commissioner Schmidt:

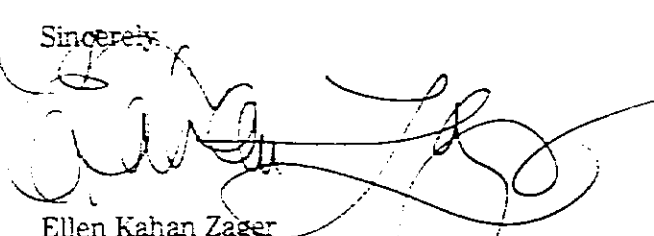
I am a resident of Sudbrook Park and am writing to oppose the above referenced request for variance.

Our family has lived in Sudbrook Park for over 10 years and values the historic nature of the neighborhood. As a matter of fact, we own one of the original properties and have made an extraordinary financial investment in its restoration.

It is of utmost concern to us that Sudbrook maintain its unique character as a turn of the century residential community; a neighborhood of citizens who care about their community, its beauty, and its stability. If Mr. Rubenstein is allowed to park his commercial towing vehicle here it will pave the way for the possibility of others doing the same, endangering the very character many of us have spent many hours and many thousands of dollars trying to enhance and maintain.

While I do not deny Mr. Rubenstein the means for making a living, our beautiful residential neighborhood is not the place for his truck.

Thank you for your serious consideration of this issue.

Sincerely,

Ellen Kahan Zager

Mr. Lawrence Schmidt
Office of Planning and Zoning
Old Courthouse Room 112
400 Washington Ave.
Towson MD 21204

9/19/96

Dear Mr. Schmidt:

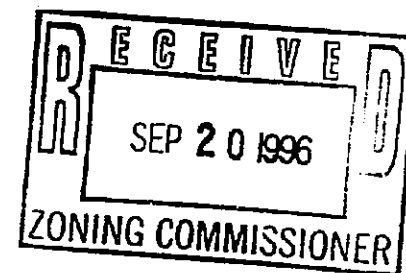
I write in reference to zoning case 97-52-A (Item 45) 902 Windsor Road
Petitioner: Jake Rubenstein.

Mr. Rubenstein requested a variance to continue to keep his commercial length flatbed tow truck (a car can be placed on top of it) in his driveway.

I have lived in Sudbrook Park for 10 years and I live down the block from the Petitioner. Ever since I have moved in, I have been cognizant of, and from time to time, have participated in efforts to document Mr. Rubenstein's zoning violation caused by parking his flatbed truck in front of his house or in his driveway. The organization to document the continuing violation was difficult, at best, and has taken many years of effort. Therefore, Mr. Rubenstein's contentions that he has parked his commercial vehicle in violation of zoning ordinances, for many years, is despite of his neighbors continued complaints to him personally and to the zoning office, and despite our efforts to provide proof of his consistent disregard of the law. So, although Mr. Rubenstein contends he has parked his truck there for many years, the neighbors have also complained for ten years and requested repeatedly that he desist, to no avail.

This truck, which is about as long as his house, is a blight on our historic residential neighborhood. It is huge, especially in relation to the very close density of homes on that block, and completely out of character in a residential neighborhood of beauty and serenity, old trees, and quiet streets.

Directly across one-lane Windsor Road from the Petitioner, is the map boundary of the Sudbrook Park National Historic District (also a County Landmark). The obvious fear, is that if the Petitioner is allowed to continue such a flagrant abuse of the residential commercial vehicles ordinances, that other neighbors may do the same, and why should they not receive variances, as well? In fact, why should they even bother to ask for variances, if they perceive that because the Petitioner never asked for a variance, is the very reason he is now granted one on the basis of a long-standing violation?



file

sent copy of
letter on
9/28/96
by

607 Sudbrook Road
Baltimore, Maryland
September 5, 1996

Deputy Zoning Commissioner
Timothy M. Kotroco
Room 112 Old Court House
400 Washington Avenue
Towson MD 21208

Re: Case #97-52-A (Item 45)
Petitioner: Jake Rubenstein
Hearing 9-6-96 at 9:00 A.M.

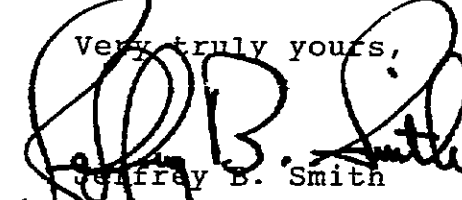
Dear Commissioner Kotroco:

I must respectfully request that the petition for a variance in the above matter be denied.

The 15,000 pound truck parked at 902 Windsor Road, solely in the front yard, and used exclusively in a commercial venture to tow and/or haul motor vehicles, is in clear and flagrant violation of the applicable zoning laws and regulations. It is a detriment to the entire 500 plus homes in Sudbrook Park.

We have strived arduously to maintain this 1889 Olmsted community and the quality of life for our families living here. Sudbrook Park is on the National Register of Historic Places, is a Baltimore County Landmark District and is a Community Conservation District.

Thank you for your consideration of this request.

Very truly yours,

Timothy M. Kotroco

786 Cliveden Road
Baltimore, Md. 21288
September 5, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Bldg., Rm. 112
400 Washington Avenue
Towson, Maryland 21204

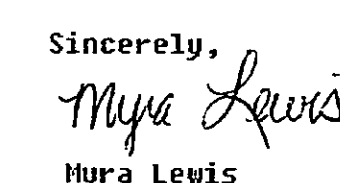
Re: Petition for Variance - Case No. 97-52-A (Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

I have been a resident of Sudbrook Park for fifteen years, and I am writing to express my opposition to the above named request for variance. Our neighborhood association and residents have worked very hard to maintain the beautiful historic and residential community that we are and have been for one hundred years.

The Petitioner should not be allowed to park a commercial vehicle, the Jerr-Dann tow truck in Sudbrook Park. If a variance were granted, it could set a precedent for the requesting and/or granting of other variances which would completely destroy the uniqueness of this community, one which is listed on the National Register of Historic Places and designated a Baltimore County Landmark District.

I urge you to consider what is in the best interests for Sudbrook Park and deny this request for variance. Thank you for allowing me to voice my opinion.

Sincerely,

Myra Lewis

701 Cliveden Road
Baltimore, MD 21208
September 5, 1996

By fax: 887-2824

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse - Suite 112
400 Washington Avenue
Towson, MD 21204

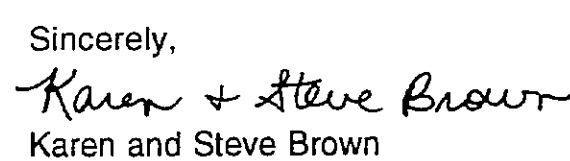
Re: Petition for Variance - Case No. 97-52-A (Item 45)
(Jake Rubinstein, Petitioner)

Dear Commissioner Schmidt:

We are residents of Sudbrook Park and are writing to express our opposition to the variance requested by Mr. Rubinstein who lives at 902 Windsor Road. Sudbrook Park is an historic, residential community. Mr. Rubenstein's Jerr-Dann tow truck is not only illegal under zoning laws but is an eyesore. It is long past time that he find appropriate parking for it in a non-residential area.

Sudbrook Park has been buffeted by many intrusions over the years, from the subway to threatened new development. As an older area of Baltimore County and as part of a Community Conservation area, it is especially important to retain the very qualities that drew residents to Sudbrook Park in the first place. These include its history, its narrow curvilinear streets and its tranquil, park-setting - in sum, its character as a residential area. If this variance is granted, it would most assuredly open the door to other such requests, thus destroying those aspects that make Sudbrook Park such a delightful place to live and raise children.

As citizens and taxpayers, we count on the zoning process to uphold the laws that have been passed to maintain the clear separation of prohibited commercial and residential uses. We urge you to deny the variance that Mr. Rubinstein is requesting.

Sincerely,

Karen and Steve Brown

Re: Case Number 97-52-A (Item 45)
Petitioner: Jake Rubinstein

722 Howard Road
Baltimore, MD 21208
August 28, 1996

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Commissioner Schmidt,

I am extremely opposed to granting Mr. Rubinstein a variance to keep his tow truck parked in his driveway at 902 Windsor Road. Sudbrook Park is a historic residential community designed to blend the neighborhood with its natural surroundings. When Frederick Law Olmsted Sr. planned this area in 1889, he incorporated tree-lined curving streets with wooded areas to create a park-like atmosphere. Our community wishes to preserve Olmsted's vision and a tow truck parked at a residence does not fit his image. I feel that granting this exemption would open the door for similar requests.

I strongly urge you to reject Mr. Rubinstein's petition for a variance.

Sincerely,

Dottie Collins

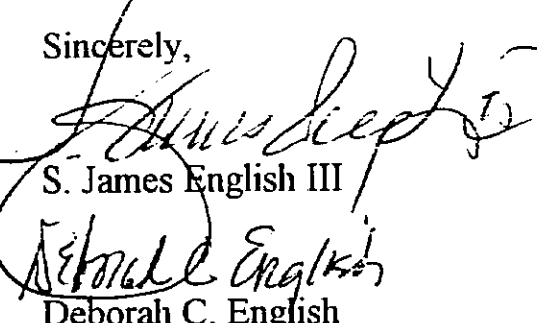
August 30, 1996

Mr. Lawrence E. Schmidt
Zoning Commission
Old Court House Building, Room 112
400 Washington Avenue
Towson, MD 21204

Dear Mr. Schmidt:

This letter is written to express our strong opposition to the zoning variance (97-52-A) for 902 Windsor Rd. The commercial Jerr-dann towing vehicle continues to be an eyesore and is noisy and disruptive.

As property owners in Sudbrook Park, my wife and I share the opinion that such a variance would be incompatible with the rural setting of our neighborhood as planned by Frederick Law Olmstead and would serve as an invitation to further commercial encroachment.

Sincerely,

S. James English III
Deborah C. English

518 Sudbrook Road
Baltimore, MD 21208
cc: Sudbrook Club President

File T-11
Hearing
on 11/6/96
JES

612 Cliveden Road
Baltimore, Maryland 21208
October 24, 1995

Mr. Arnold Jablon, Director
Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Commercial Vehicles on Residential Property

Dear Mr. Jablon,

The Board of the Sudbrook Club, whose members are named below, wishes to report a zoning violation in our community. We take this action in behalf of residents who have enlisted our support in this matter.

The violation concerns the parking of a Jerr-Dann flatbed truck in the driveway of the house located at 902 Windsor Road. This parking arrangement has been a practice for many years. On occasion, the vehicle is parked in the driveway with cargo loaded. However, the complaints we have received focus on the truck's parking location with without a load.

We have been reluctant to precipitate legal action against Mr. Jacob Rubinstein, the owner of the truck and the residential property. But we have reached an impasse in that Mr. Rubinstein has not communicated to us alternative parking arrangements that will be consistent with zoning regulations. Copies of our recent letters to Mr. Rubinstein accompany this letter.

Your pursuit of this matter will be appreciated by our Board and by those members of our community who object to this seemingly permanent violation of the ordinance(s) which enforce separation between commercial and residential uses of property.

Very truly yours,

Leonard Frank
Co-President, The Sudbrook Club, Inc.

cc: Mr. Jacob Rubinstein

Board of The Sudbrook Club, Inc.
Mira Appleby, Secretary
Mark Cohan, Member at Large
Dorothy Collins, Historian
Peggy Eskey, Member at Large
Irma Frank, Co-President
Peggy Lacy, Vice President
Myra Lewis, Treasurer
Jeffrey Smith, Vice President

Mr. Jacob Rubinstein
902 Windsor Road
Baltimore, Maryland 21208

Re: Commercial Vehicles on Residential Property

Dear Mr. Rubinstein,

The Sudbrook Club, Inc. has received several complaints regarding what appears to be your operation of a commercial towing business from your residence at 902 Windsor Road. Over a long period of time, your Jerr-Dan flatbed truck ("Jake's Towing Baltimore, MD") has been observed consistently parked in your driveway at various times during the day and overnight - sometimes with vehicles on the flatbed.

As you are aware, Baltimore County Zoning Regulations enforce a strict separation between commercial and residential uses of property in order to maintain the residential character of a neighborhood. This separation encourages toward preserving the property values of all residents. The Zoning Department advises us that a Jerr-Dan flatbed, such as the one you have, clearly is a commercial vehicle that should not be housed in a residential area. According to the Zoning Department, parking a Jerr-Dan vehicle at a residence, whether with or without additional vehicles on the flatbed, is in violation of Section 431 of the Baltimore County Zoning laws. A copy of this regulation is attached for your review.

The Board of the Sudbrook Club requests that you voluntarily comply with the law and refrain from parking your Jerr-Dan flatbed truck in Sudbrook Park. We realize that it will be necessary for you to make arrangements to accomplish this and, therefore, anticipate that the truck may continue to be parked at your residential site for another 30 days. If, however, the truck is there after the 30 days have expired we will - with regret - take the case to the Zoning authorities.

The next scheduled meeting of the Club is on September 19 at 800 Sudbrook Lane. If you would like to discuss the matter with us - your neighbors - please let me know (486-5387) and I will be happy to include this item on the agenda. We hope that you and we, together, will work to preserve the residential character of our historic and beautiful community.

Sincerely,

Leonard Frank
Co-President
The Sudbrook Club, Inc.

612 Cliveden Road
Baltimore, Maryland 21208
September 6, 1995

Mr. Jacob Rubinstein
902 Windsor Road
Baltimore, Maryland 21208

Re: Commercial Vehicles on Residential Property

Dear Mr. Rubinstein,

This is to follow up on our telephone conversation of this morning and to try to summarize where you and we (i.e., the Sudbrook Club) stand in our controversy over the parking of your Jerr-Dan vehicle in your driveway. If you feel that my summary is incomplete or inaccurate please express your thoughts via a letter to the Sudbrook Club, c/o me - a Co-President of the Club.

My summary:

1. Parking a Jerr-Dan flatbed, such as yours, in the driveway of a home in our residential area is in violation of Section 431 of the Baltimore County Zoning laws. You haven't refuted this.

2. The Board of the Sudbrook Club has been asked to do what it can to end this parking arrangement in order to preserve the residential status of our community. The Board felt (and still feels) that the best way to achieve this is by voluntary action on your part. It has no desire to subject you to legal action by the County. Thus, my letter of September 6, 1995 communicating this request.

3. Although you persist in asserting our stand to the complaint of one individual I assure you that the Board is unanimous in its desire to have you park your vehicle outside of Sudbrook Park. In every sense, your differences are with the Board and not with any particular person.

4. You maintain that, in taking this action, the Sudbrook Club is not expressing the will of the community which it is purporting to represent. It should be remembered that a single individual, a group, or the Zoning Commission on its own volition can initiate action.

5. I asked whether you would like an additional thirty days (from today) in which to make arrangements to park your vehicle elsewhere. You chose not to make such a request and suggested that the Board decide if and how it would like to help you in these arrangements and to let you know in writing. I can now advise that the Board will withhold the filing of any complaint in this regard until October 14, 1995 in the hope that you will find suitable parking arrangements.

6. See no chance for the Board to follow the course that you expressed in our conversation - viz., simply do nothing about the zoning violation and not react to the current parking arrangements for your Jerr-Dan vehicle. For what it is worth, I assure you that we hope we can reach resolution without legal action and at minimal business cost to you in finding alternative parking arrangements.

Sincerely,

Leonard Frank
Co-President
The Sudbrook Club, Inc.

612 Cliveden Road
Baltimore, Maryland 21208
March 23, 1997

The Board of Appeals of Baltimore County
Old Courthouse Building
400 Washington Avenue
Towson, Maryland 21204

Re: Case # 97-52-A
Petitioner: Jake Rubinstein

Dear Persons,

We have been home-owner residents of Sudbrook Park since 1964. During this time we have appreciated the residential nature of this community and its serenity. Its streets have been largely devoid of apparent commercial activity; they invite leisurely walks and contemplation. This, of course, is no accident. The community was designed for this kind of living by Frederick Law Olmsted, Sr., a visionary landscape architect who anticipated the need for unperturbed residential neighborhoods.

Mr. Rubinstein's flagrant disregard of Baltimore County zoning regulation Section 431 with respect to parking his 15,000 lb Jerr-Dan tow truck in his driveway is a sad intrusion on our lives in Sudbrook Park. He has persisted in this illegality for many years in spite of continued community requests to find an esthetically acceptable and legal parking arrangement. Support for our position was provided by the Zoning Commissioner's denial of Mr. Rubinstein's variance request, some six months ago.

Surely, law-abiding County residents such as ourselves should not have to endure this abuse of a zoning regulation. We urge your Board to uphold the earlier denial of the variance request in this case.

Very truly yours,

Irma Frank
Leonard Frank

1007 Windsor Road
Baltimore, MD 21208
September 4, 1996

By telecopier to 887-2824

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Suite 112 - Old Courthouse
400 Washington Avenue
Towson, MD 21204

Re: Petition for Variance - Case No. 97-52-A (Item 45)
(Jake Rubinstein, Petitioner)

Dear Commissioner Schmidt:

I am writing as a resident of Sudbrook Park to unequivocally oppose the variance requested by Mr. Rubinstein to keep his Jerr-Dann truck at his residence at 902 Windsor Road. Whether loaded with vehicles, as it sometimes has been, or standing unloaded, it is an obtrusive commercial vehicle that has no place in a residential area such as Sudbrook.

Sudbrook was designed in 1899 by Frederick Law Olmsted, Sr., America's first and most renowned landscape architect. As a part of his plan for the community, Olmsted included deed restrictions that were the first comprehensive land-use requirements in Baltimore County. Olmsted felt it imperative to separate commercial and residential uses, and included a provision to prohibit commercial intrusions. His restrictions pre-dated the adoption, more than fifty years later, of zoning laws for all of Baltimore County.

I feel that it is of paramount importance to uphold zoning laws that were enacted to separate residential and commercial uses in all communities, but particularly in older and historic ones like Sudbrook Park. Mr. Rubinstein's Jerr-Dann is a jarring misfit in this bucolic community and totally out of character with our historic neighborhood. Moreover, granting this variance would undoubtedly open the door to other such requests; many people who have commercial vehicles which are not by law allowed to be kept at their homes would find it more convenient and profitable to do so. The end result would be a mockery of the rationale for having zoning laws at all. I urge you to deny the requested variance.

Sincerely,

Melanie Anson

Bayard Z. Hochberg
171 Cliveden Road
Baltimore, MD 21208
484-0549

September 3, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Bldg., Rm 112
400 Washington Avenue
Towson, MD 21204

Re: Petition for Variance - Case No. 97-52-A
(Jake Rubinstein, Petitioner)

Dear Commissioner Schmidt:

I am writing to you in the above matter as a resident of Sudbrook Park for 37 years. During these years I have been active as an officer, director, committee member, volunteer, attorney, and in every other way. I would like to help maintain our community and its history. I currently serve as Chair of the Sudbrook Park Advisory Committee coordinating on landmarks matters with the County's Landmark Commission. Sudbrook Park is a "unique" like no other in Baltimore County, perhaps not even in the entire State.

I am well aware of the problems of Mr. Rubenstein and his tow truck at 902 Windsor Road, since I have to see it on my walks and rides thru the Park. It is one of our few ugly sights. We have been trying for more than a decade to get this owner to do something to meet us halfway at least, in removing it from view. I personally made known to him the availability of garage space nearby; he apparently was not interested. His position was confrontational, combative, and "in your face." He has probably kept violating the law for years and now asks that his attitude be legitimized.

I cannot think of one good reason why his Request for Variance should be granted, and urge it be denied.

Thank you for considering this letter.

Respectfully,

Bayard Z. Hochberg

BZH/dms

cc: Mr. & Mrs. Len Frank

711 Cliveden Road
Pikesville, Md. 21208
September 4, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Suite 112 - Old Courthouse
400 Washington Avenue
Towson, Md. 21204

Re: Petition for Variance - Case No. 97-52-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

I am writing to oppose the variance requested by Mr. Rubenstein to keep his Commercial Rollback tow truck at his residence at 902 Windsor Road in Sudbrook Park. Mr. Rubenstein's Truck has been an eyesore in our community for too long and needs to be removed.

Mr. Rubenstein's Truck was an issue when I was President of the Sudbrook Club from 1992 to 1994. When I first took office it was brought to me as a complaint. At the time we were too busy with getting Landmark designation to be able to deal with the truck issue. When we finally were able to start dealing with some of the zoning problems in the neighborhood, we were told there was a law being introduced to lower the burden of proof. Since simply asking Mr. Rubenstein to please move his truck had failed in the past we decided to wait for the new law in order to make the process easier. Before that occurred we then had several other major issues come up that prevented us from getting back to Mr. Rubenstein's truck, though the issue was still discussed at meetings. Our lack of action should not be taken as consent of Mr. Rubenstein violating Zoning Laws.

Sincerely,

John Horsman

1018 Windsor Road
Pikesville, Maryland 21208
August 30, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Building, Room 112
400 Washington Avenue
Towson, MD 21204

RE: Petition for Variance - Case No. 97-52-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:

I am a resident of Sudbrook Park and am writing to oppose the above-referenced request for a variance. Sudbrook Park is a fine residential neighborhood with a proud history of being one of only four residential neighborhoods planned by Frederick Law Olmsted, Sr. The vast majority of the residents take great pride in their homes and gardens, which helps to preserve Sudbrook Park's sense of community. As one of the older neighborhoods in Baltimore County, we are fighting the same factors which are causing many county neighborhoods to decline - crime, declining public schools, and properties which are allowed to fall into disrepair. For quite some time, the Jerr-Dann tow truck parked in a driveway on my street has been a major eyesore for all of the residents on Windsor Road. It has been a negative factor in selling other homes on Windsor Road. This is a large commercial vehicle that does not fit with the residential character of this neighborhood.

Many residents of Sudbrook Park have invested substantial amounts of money to renovate and improve their homes. We do this because Sudbrook Park is a beautiful neighborhood with fine older homes and good neighbors. When I purchased my home in Sudbrook Park three years ago, I understood the fact that there were restrictions on what I can and cannot do to my home. I appreciate those restrictions because they help to ensure that the neighborhood will continue to have its wonderful appearance and be attractive to future homeowners. A variance will open the door to neighborhood decline, lower property values, and fewer tax dollars to fight the problem. I strongly urge you not to grant this variance.

Sincerely,

George H. Bowers

cc: Len Frank

709 Cliveden Road
Baltimore, MD 21208
September 5, 1996

Lawrence E. Schmidt,
Zoning Commissioner
Office of Planning and Zoning
Old Courthouse Building - Room 112
400 Washington Avenue
Towson, MD 21204

RE: Petition for Variance - Case No. 97-52-A
(Jake Rubenstein, Petitioner)

Dear Commissioner Schmidt:
As residents of Sudbrook Park, my husband and I take pride in its unique historical character. We have endeavored since moving here eight years ago, to preserve this heritage by actively participating in our community organizations which works to maintain this heritage. My husband, in particular, has invested countless hours working toward this goal. He was very much opposed to the above referenced variance. Not only will this large, obtrusive truck continue to be an eyesore, but it continues to send a mixed message that is commercial.

The Board of Appeals to the same body,
201 Lawrence Building
600 Lexington Street
Towson Maryland 21204

Dear Board Members

Ours is a residential and historic neighborhood. Our families are invited to special events and gatherings regularly. Cooperation among neighbors has led to the creation of local ~~to~~ historic landmark district status as well as a designated National Historic landmark. Some of the qualities that attract and interest residents to settle and remain for decades are also protected by zoning regulations that disallow large, oversized commercial vehicles in our streets and front yards. Mr. Rubenstein's Jerr - Dan tow truck is an eyesore, and a variance would encourage others to act in the same manner. Please restrict such actions.

Yours truly,
Jenny Sataloff

Laurence E. Schmidt
Zoning Commissioner
Office of Planning & Zoning
Old Courthouse Building - Rm 112
400 Washington Ave.
Towson, Md. 21204

Aug. 30, 1996

Re: Petition for Variance - Case No.
97-52-A

Dear Commissioner Schmidt, 17-52-71
(petitioner is Jake Rubenstein)

I have lived in Sudbrook Park and am currently raising my four children here. It is a lovely neighborhood and I would like to stay here for a long time. My husband teaches at McDonough School and I am on the board of the Baltimore County Historical Trust. I also run the Pikesville Rec. soccer clinic for 5-6 year olds (I need a raise!!!) I am also on the committee with ~~the~~ Councilman Kevin Kamenetz to write up a comprehensive plan for Sudbrook Park. I would like to encourage neighboring areas to organize and do something for themselves as well.

and as someone for themselves is well.

For as long as I have lived here, Mr. Rubenstein's commercial and large vehicle has been a source of conflict. He needs to hear from an authority that his truck does not belong where he is ingisting with his variance request. We would like to preserve the residential nature of this historic neighborhood. Opening the way to his truck would encourage other owners of commercial trucks to follow suit and that would have a negative impact on this neighborhood. Please help us as we continue to maintain and improve a unique part of Baltimore County.

Sincerely,
Jenny Lee Sataloff

I the undersigned reside in Sudbrook Park, and representing my household, DO NOT support the actions undertaken that will prevent the parking of one truck in excess of the 10000 pd. limit (but not to exceed 15000 pd GVM) in the driveway located at 902 Windsor Rd.

I therefore support the approval of the zoning variance applied for in this matter

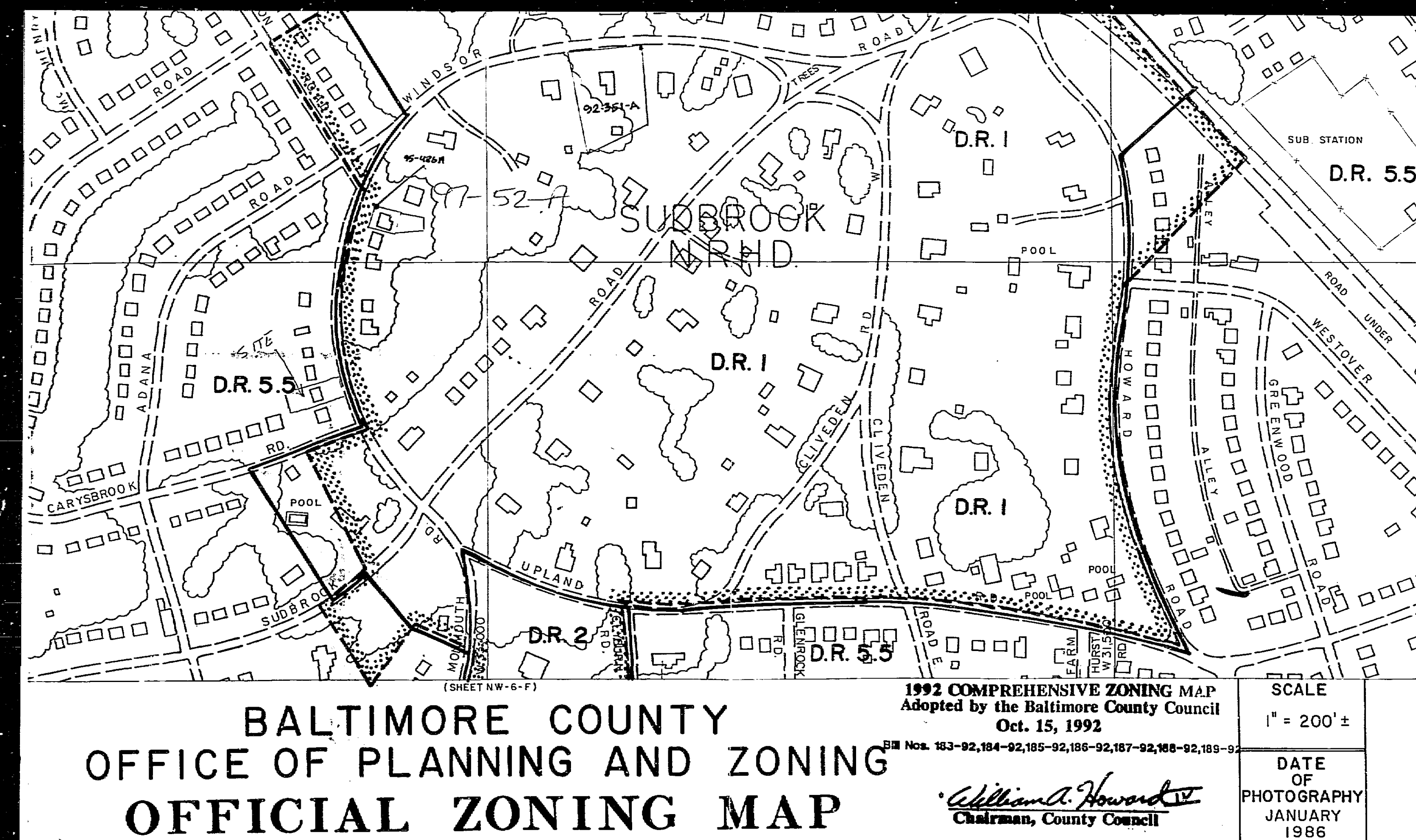
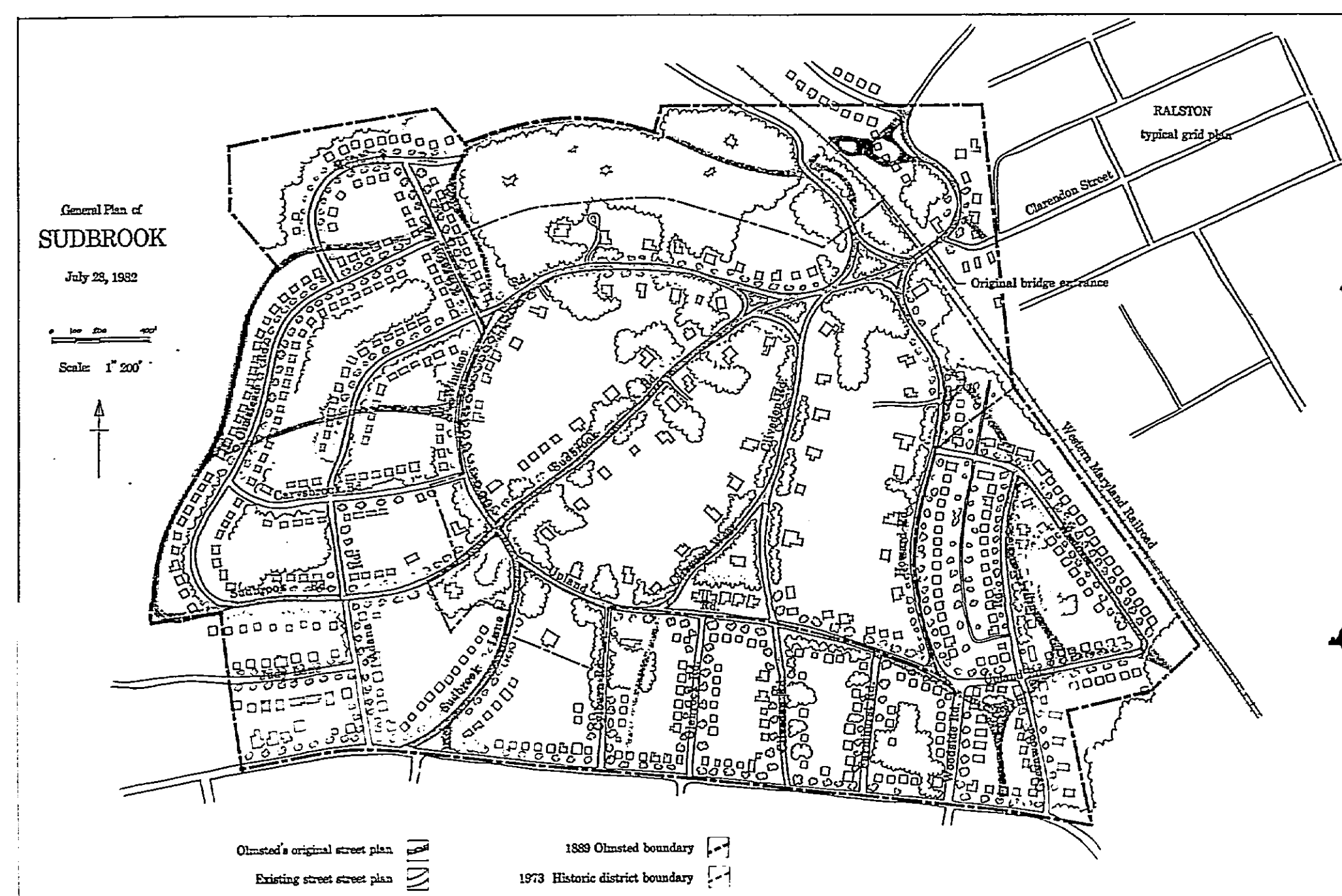
NAME:	ADDRESS:
Ben H. Reynolds Brian Reynolds	904 Windsor Rd
SHEDDON BRAHMS WILLIAM	906 WINDSOR ROAD
KELI BALKIS.	907 WINDSOR RD.
Charles J. Chicago	600 Campbell Rd.
John	911 WINDSOR RD.
Harriet Lowenkamp	910 Windsor Rd.
John	913 Windsor Rd
Tom Hayden	1004 Kingston Rd.
Sharon Wase	1005 Kingston Rd.
Paul Chittell	1008 Kingston Rd
Wesley Briggs Col	1011 Kingston Rd.
Paul Olson	1013 Kingston Rd
John J. S.	945 Kingston Rd.
John	1003 Kingston Rd.
Michael Carly	908 WINDSOR ROAD
John	560 SUDBROOK LANE
Paula G. Meme	520 SUDBROOK LANE
Ray H. Mosser	520 SUDBROOK Lane

900-907 empty

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

<u>NAME</u>	<u>ADDRESS</u>
Leonard Frank	612 Cliveden Rd 21208
Irma Frank	612 Cliveden Rd 21208
ANNE FISHERMAN	704 W. CLIVEDEN RD 21208
Dottie Collins	722 HOWARD RD 21208
Richard L. Ottensmeyer	725 Arysbrook Rd 21208
Bernie Appleby	605 Cliveden Rd 21208
Jenny Sataloff	419 Upland Rd. 21208
Frances Leith Tetlow	708 Cliveden Rd. 21208
Joanne Deuman	1015 Upland Rd 21208
Marta B SMITH	607 SWBROOK RD. 21208
Jeffrey R. Smith	" " " "
Nellie Annson	1007 Windsor Rd 21208



NW - 7F

SUDBROOK CLUB
Board of Directors
August 26, 1991

PRESENT: Rick Bauman, Joanne Bauman, Sally Grace, Clarence Inglis, Melanie Anson, Dottie Collins, Donald Hicks, Bob Hochberg, Max Weisfeld, Jake Rubinstein, Kathleen Boyle.

CALL TO ORDER: Vice-President Rick Bauman called the meeting to order at 8:09 P.M.

TREASURER'S REPORT: No report was presented.

TOW TRUCK: Jake Rubinstein was invited to this month's meeting to discuss the problem with his tow truck. Mr. Rubinstein explained the steps that he had taken in order to resolve the problem with his tow truck. He sent a petition around to all of his immediate neighbors asking them to sign the petition if his tow truck did not bother them. Two households did not sign: 1) this neighbor did not care about the truck but did not want to get involved; and 2) the next-door neighbors would not sign. Mr. Rubinstein explained that his truck is his livelihood and that he is on-call twenty-four hours per day. He noted that he deals with businesses and not the public and that at 2AM or 4 AM he must be able to respond promptly or he will lose business.

Members of the Board noted that the Sudbrook Club Board has been receiving complaints from members of the Sudbrook Club regarding the tow truck for approximately two years. It was noted that parking a commercial vehicle over 3/4 ton in a private driveway in a residential neighborhood is a zoning violation. When the tow truck is parked in the street, if another car is parked directly across from it, the street is too narrow to allow more than one car to get through. One member of the Board noted that some or all of the people who signed the petition felt coerced to sign it, because they were afraid not to. Another member noted that the truck was reported to the county zoning board two years ago. The county came in and inspected a complaint lodged by a member of the Club. If another complaint is received by the county, even if it is just a verbal complaint, the county can proceed with a court injunction.

The possibility of renting a garage in order to store the truck was discussed as one resolution to the problem. There are, however, a number of constraints including: 1) the truck does not fit in a lot of garages due to its size, 2) expense, 3) it must be a secure place and 4) it should be near Mr. Rubinstein's house in order that he may reach his truck promptly and also that he can be on the road quickly in any kind of weather conditions, rather than having difficulty reaching his truck in his car in snow emergencies. Mr. Rubinstein stated that he was willing to look into the possibility of renting a garage near his home. Several Board members made several suggestions as to possibilities that could be investigated.

PROTESTANT
EXHIBIT NO. 3

MINUTES OF THE
SUDBROOK CLUB
DEC. 15, 1992
PLACE: KATZENBERG'S

Present:

Darragh Brady John Horsman Lis Katzenberg
John Leith-Tetrault Janet Singerman Jeff Smith

The meeting was called to order by John Horsman.

1. Minutes.

The Minutes were approved as corrected below.
Submitted by Jeff Smith re 204 Sudbrook Lane.
The owners of 204 Sudbrook Lane were not granted all they requested with respect to zoning variances: the request for a reduction in front setback from 50 feet to 30 feet was denied, but it was reduced to 40 feet; the final backyard setback was not as requested; and more stringent sideyard setbacks were imposed.

2. Treasurer's Report:

Current balance = \$6358.36
Dues \$2710.00 (This is from a total of 246 houses which equals approximately 50% of the houses within the neighborhood's boundaries.)
Newsletter deadline= Jan. 15, 1993

3. Neighborhood Watch

Officer from Garrison Police district will come next month. J. L-T talked with Adele Kass re/officer Right as to her non-communication. (Right's non-communication that is)

4. Traffic and Slowing it Down!

The issue of how to most effectively slow down traffic on our smaller streets was discussed. In the past Jack Zager had done a lot of work on finding out about speed bumps and should be consulted. The possibility was also raised that "Rumble Strips" as opposed to speed bumps might be feasible. DB volunteered to find out where one can get information on these traffic issues.

5. Interim

A motion was made that the Sudbrook Club should write a letter to Paula Hollinger stating their approval for Interim (a transitional housing project proposed for the St. Charles Convent on Sudbrook Lane). The letter would state that the approval is for the transitional housing aspect of the project only and not for the overnight shelter aspect that the County is interested in pushing through. The motion was seconded and voted on: Four in favor, one abstention.

Sudbrook Club Meeting
Melanie Anson
1007 Windsor
7/20/93

PROTESTANT
EXHIBIT NO. 4

Doug Reed brought design for kiosk to replace existing sign board on triangle and informed group that, according to his roommate, matching funds are available from state.

Meeting was called to order by John Horsman.

MINUTES ** Were handed out, read and approved.

TREASURERS REPORT & Financial Report from July 4th festivities were unavailable.

LANDMARKS ADVISORY BOARD ** Bob Hochberg reported:

1. SPLC needs a non-voting member from Club
 2. They need \$100.00 appropriation for copying & misc. expenses. John H. will bring it up when budget is planned and suggested Bob talk to the new neighbor on Upland w/ a printing company.
- Bob then recapped SPLC's first meeting on June 29th. The chairman is Mike Sotir, Secretary - Steve Brown. The first concern is the property at 719 Cliveden - demolition by neglect and the need to let the owner and tenants know of the guidelines for renovation. The commission is also compiling a list of available tradesmen who will work on houses in the Park. Jim English volunteered to be the non-voting member of the SPLC.

MTA HOUSES ** Melanie Anson talked to Nelson and was told that they received our letter and Agro wants to see the houses but also wants to bring construction people, so the date is still up in the air. Melanie asked for a meeting w/ Agro.

SUDBROOK MIDDLE SCHOOL ** Will be opened as a magnet school in '94 w/ concentration on Art, Science, Languages, Math. John L.T. recommends contacting the principal about the curriculum. John H. wants us to start looking at Milford Mill H.S. Mel Mintz suggested getting facts together about what percentage of high school kids go to private school vs. public school. Surveys will be sent out with Fall membership drive.

PLAYGROUND PROBLEMS ** Kingston's block captain reports of drug problems. Vandalism continues. John H. pointed out that formal complaints need to be made to the Parks Dept. John H. will contact them to see what can be done.

BUSINESS IN THE PARK ** Complaints are being made concerning a tow truck business being operated out of a home. John H. will talk to Rick about the history of the problem, check w/ zoning board about regulations, then write to the owner of the business.

Sudbrook Club Meeting
12-15-93
John Leith-Tetrault's
708 Cliveden

PROTESTANT
EXHIBIT NO. 5

Meeting was called to order by John Horsman.
Minutes Minutes were read and approved.

Treasurers Report

Myra Lewis reported a checking account balance of: \$6,626.74
Income: Membership Dues 310.00
Expenses: (Pikesville VFD, Baltimore Historical Trust, Annual Sales Tax, Photo Copying costs) 190.00
We have had 210 responses to the membership drive.

Landmarks Advisory Board Jeff Smith reported that Mike Sotir is trying to set up a meeting with Raphaeli, Jeff S., Ed Brady, and himself. John McGrain (?) should be contacted to find out what steps should be taken and what the results would be if a complaint was filed on demolition by neglect in a historic district.

MTA Houses

Nothing new to report

Message Board Nothing new to report

PCGC A new group may be interested in opening Pikes as a Cultural film place. The question of whether we would join the group or not will be discussed when we have more members in attendance. John H. suggested having an umbrella organization consisting of the approx. 8-10 K population from Villa Nova to Pikesville Twp. It will be discussed at the next meeting.

Water Mains

The severity of water main breaks is being investigated by the county and they are in communication with the city about the problem.

Zoning Issues John H. reported that the Zoning Board can take action if someone (1) testifies about the complaint (2) writes a letter of formal complaint.

Traffic Adele told John H. to write to Dick Moore as a follow up. We need to know what options we can consider.

New Business Jeff Smith raised the issue of trees. The survival rate of the newly planted trees is almost 100% and spring planting may not be necessary. John L.T. suggested targeting areas that are a little bare. John H. can generate a list of those people who didn't respond to the survey last spring. Jeff will call the forester.

Meeting was adjourned.

Next meeting will be the 3rd Tues at Jeff Smith's.

Sudbrook Club Meeting
9-22-94
Melanie Anson's
1007 Windsor

PROTESTANT
EXHIBIT NO. 6

Meeting was called to order by John Horsman.

Minutes Minutes from 12-15-93 were read and approved. This was the last meeting which had any significant attendance.

Treasurers Report Checking Acct. Balance \$6,396.05
Expenses as follows:
Valentine Party 235.00
Christmas Electric Bill 84.51
Annual Sales Tax 57.00

Landmarks Advisory Board Jeff Smith reported that Roger Katzenberg has prepared a statement for residents affected by Landmarks. Raphaeli took house before the county Landmark Commission and seemingly got approval on verbally proposed repairs. John Horsman will contact McGrain about breakdown of communications.

MTA Houses Melanie Anson reports that there are no new developments

Message Board John H. Will pursue designs for new message board which should cost approximately \$1,000.00

Zoning Issues John H. reported that zoning laws are about to change, so we should hold off on any problems until the new laws take effect.

Tremendous Maryland Information was in newsletter but there was no response. It was suggested that a Fall planting would be a goal, after seeing how last year's saplings survive.

Nominating Committee Betsy Stellman, John Leith-Tetrault, and Melanie Anson volunteered to serve on committee. They will meet in April to form a slate.

New Business Joe Lewis has volunteered to maintain triangle over the summer. Flower order must be in by mid April if we are doing a flower sale this year.

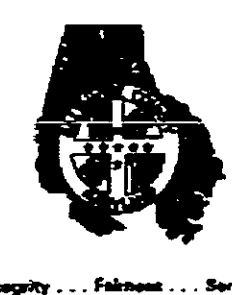
Next Meeting Tuss, April 19th at Betsy Stellman's

09/25/1996 15:58 410-887-1688

PRECINCT 3

PAGE 01

TERENCE R. SHELDON
Chief of Police



Baltimore County Police
Headquarters
700 East Joyce Road
Towson, Maryland 21286-5501
(410) 887-2214
Fax (410) 821-8887

Mr. Richard L. Ottenheimer
Sudbrook Park Community

Mr. Ottenheimer this transmittal is to confirm our conversations regarding the Jan Pan tow truck parked within your community. Please be advised that I did in fact meet with Mr. Rubenstein to discuss the violations involving the truck. In conversation I offered several suggestions to assist Mr. Rubenstein with his dilemma, one of which was to find him a place to park the vehicle in close proximity to his home. If I can be of any further assistance please feel free to contact me at 887-1604.

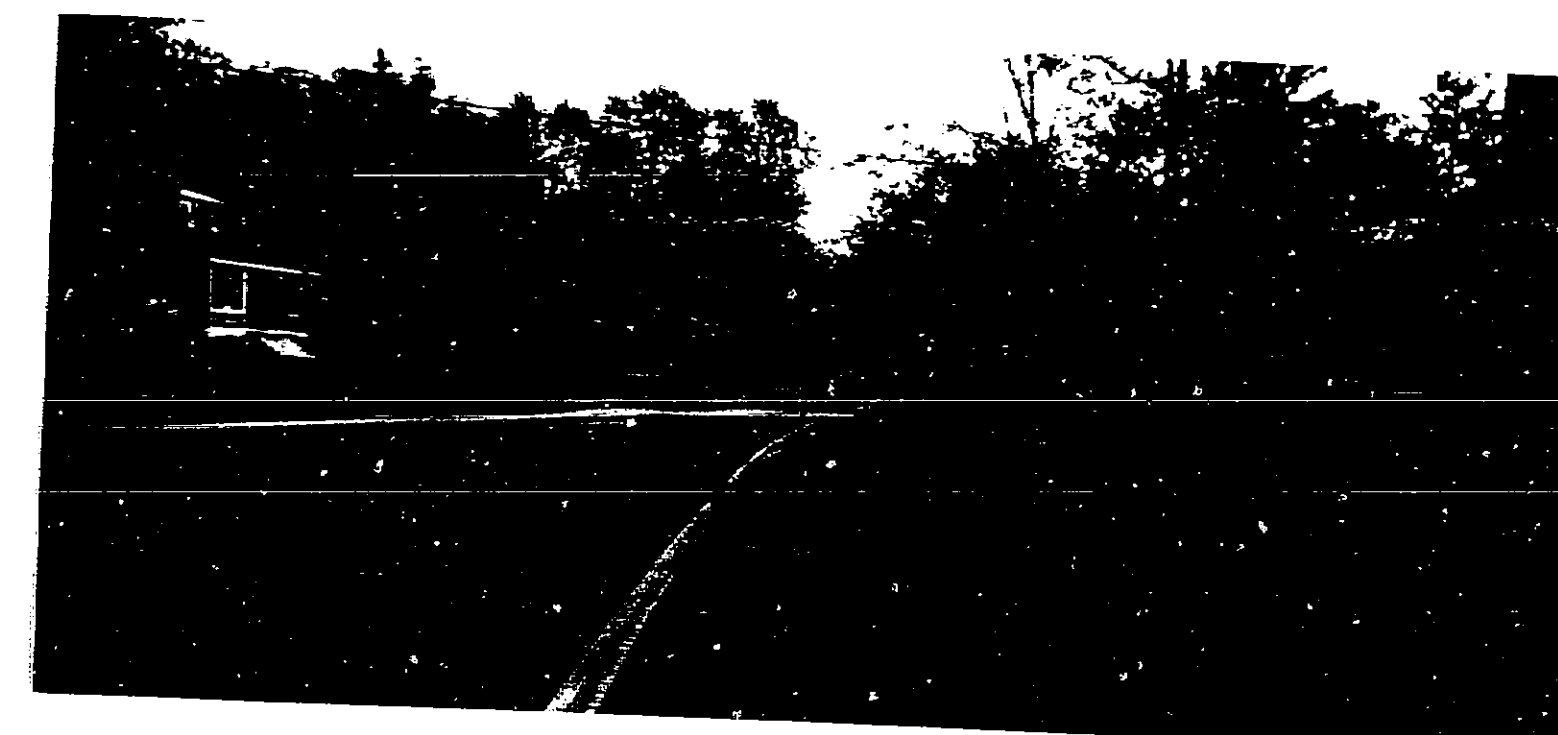
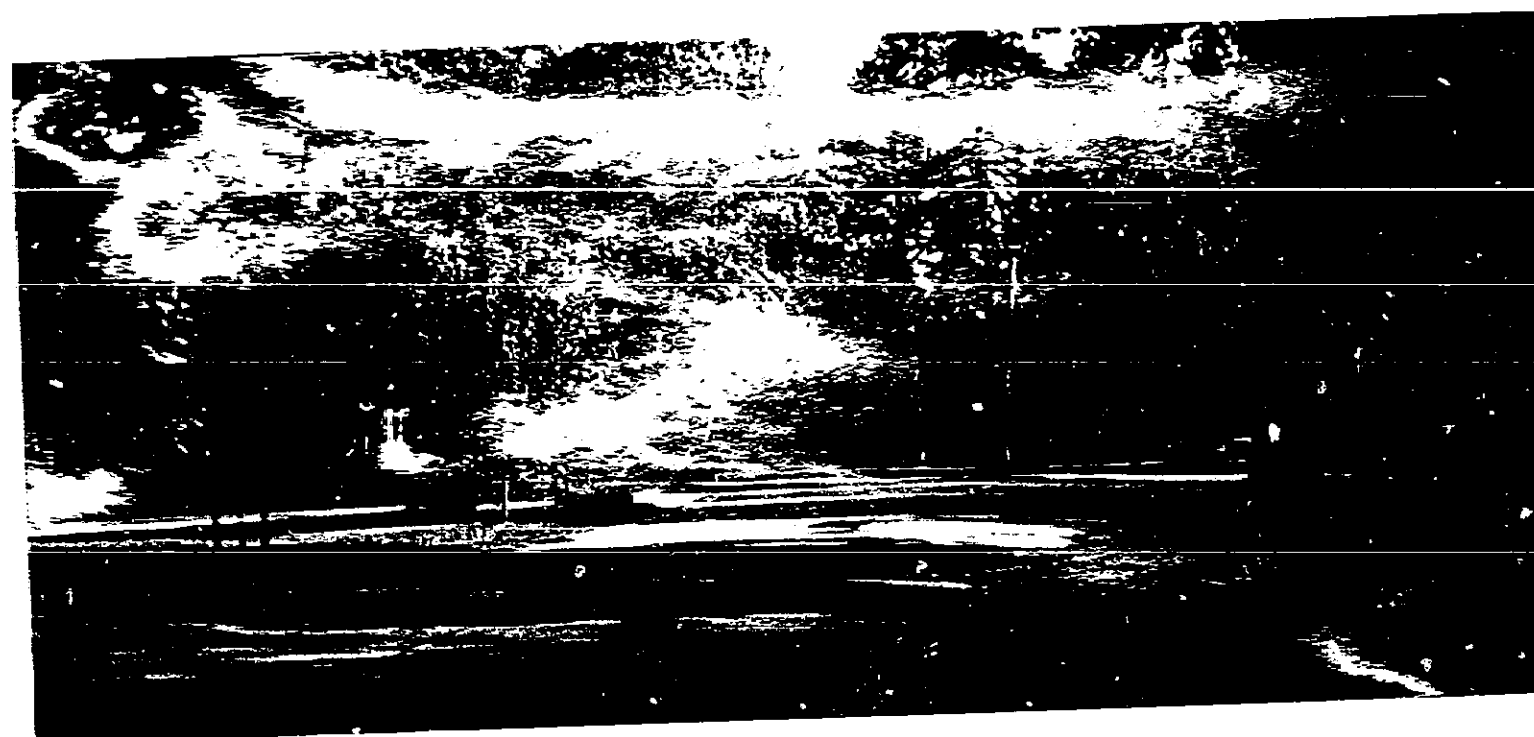
Sincerely,
[Signature]
Officer Paul Capella
Baltimore County Police

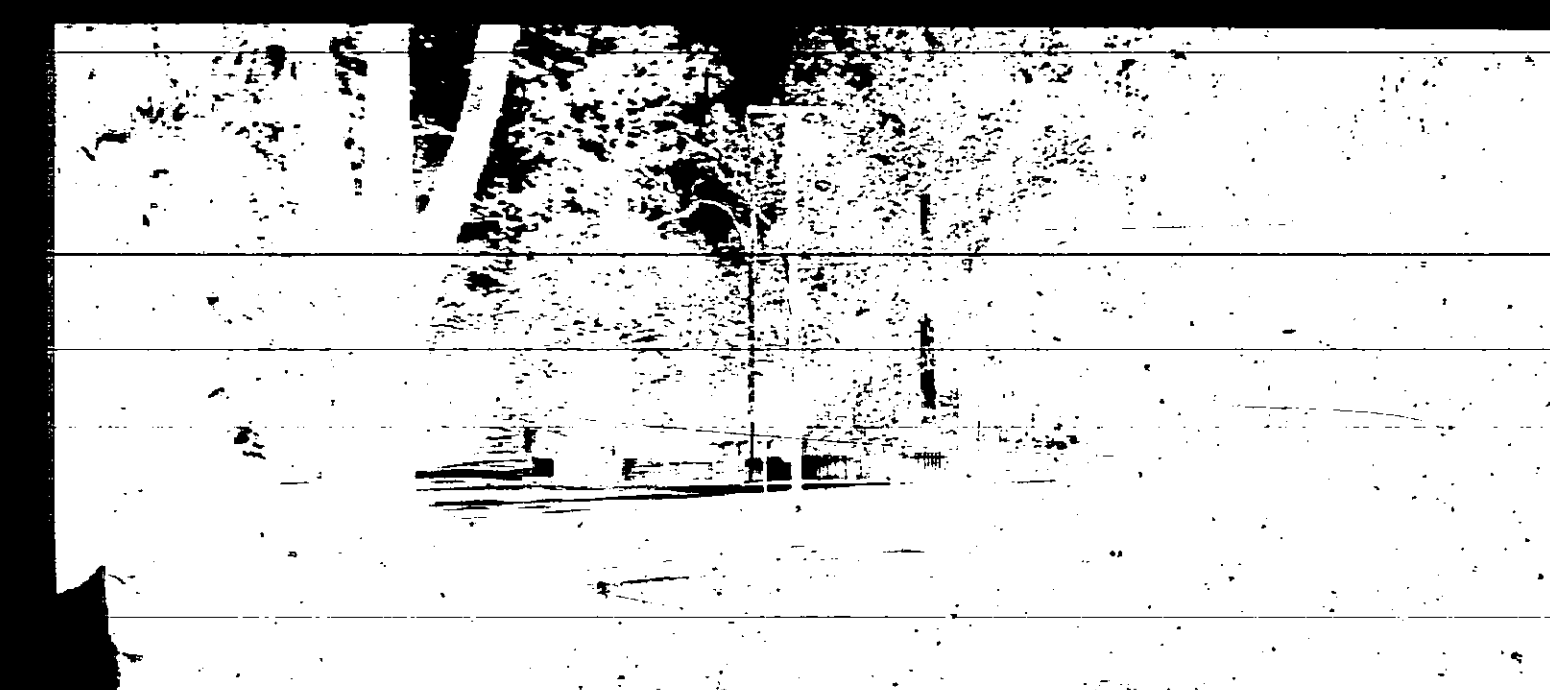
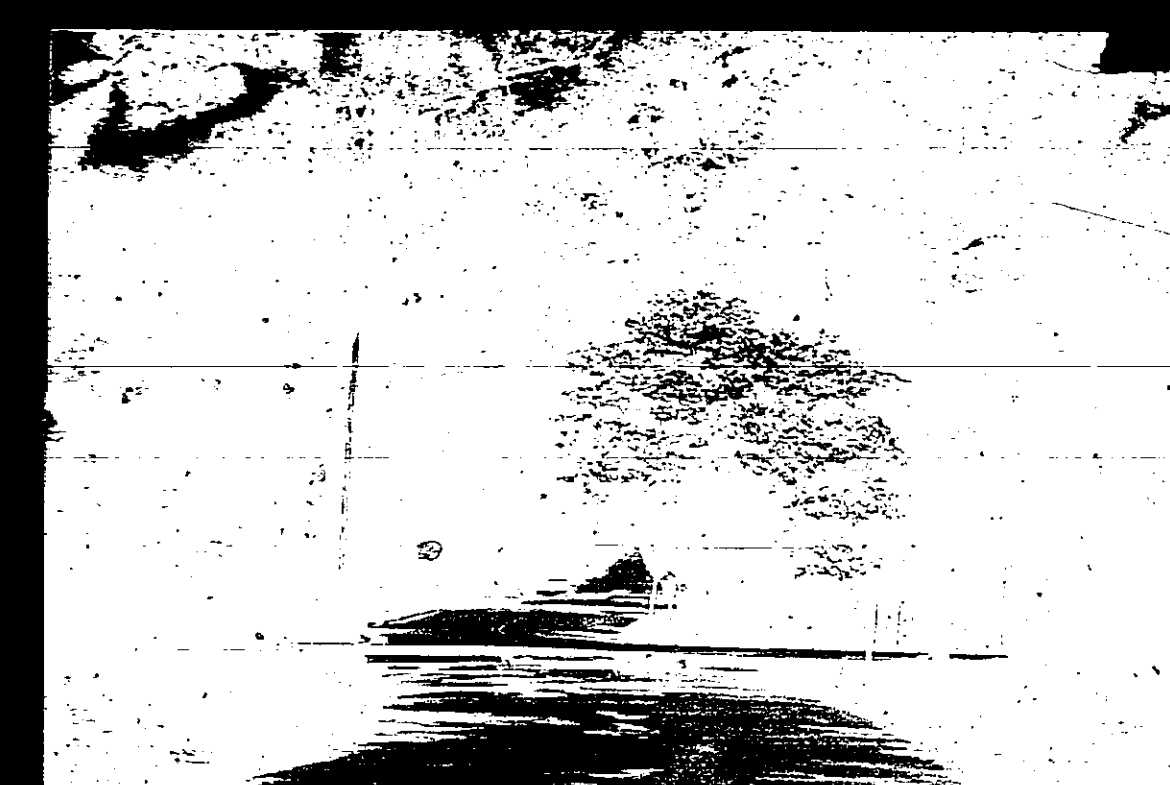
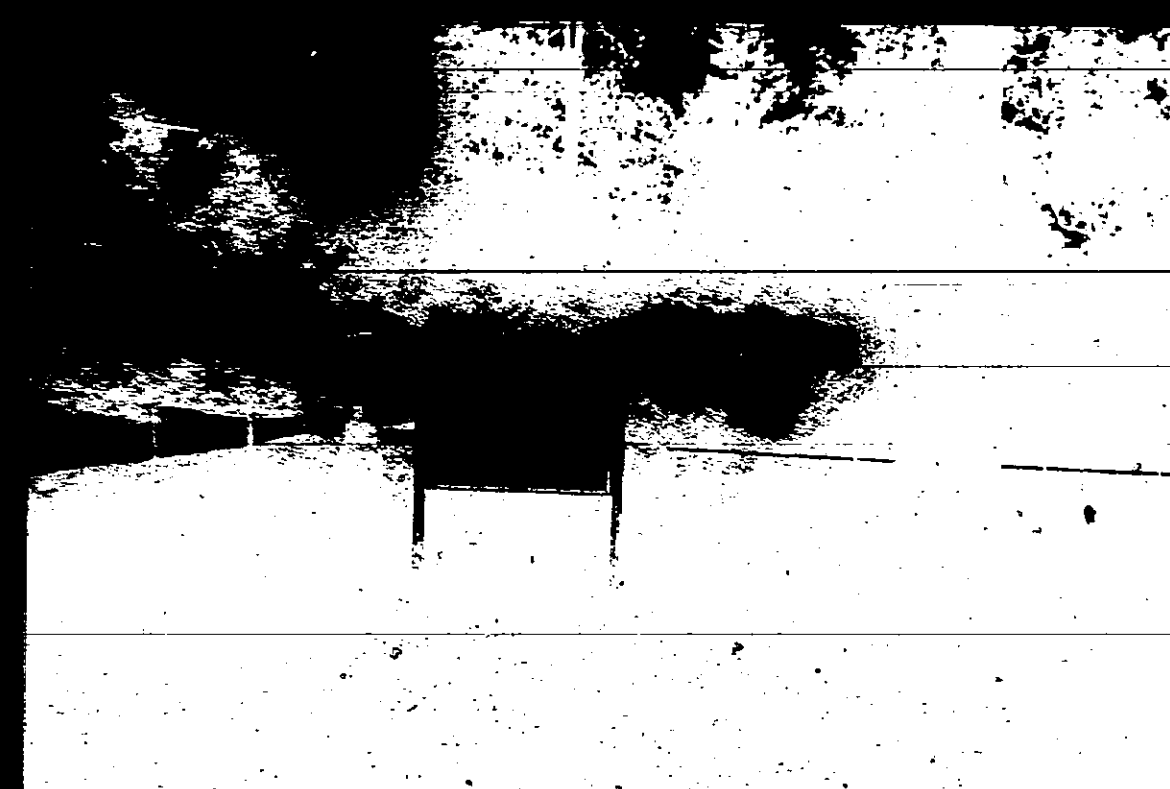
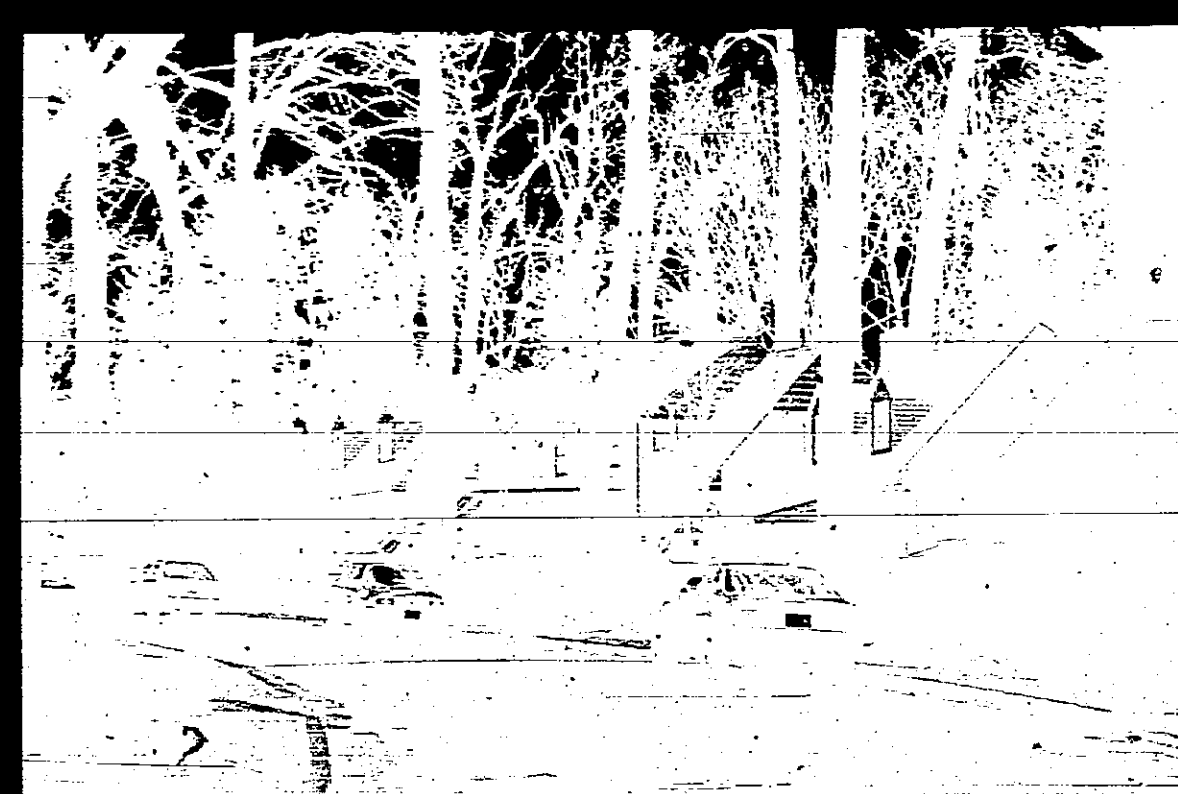
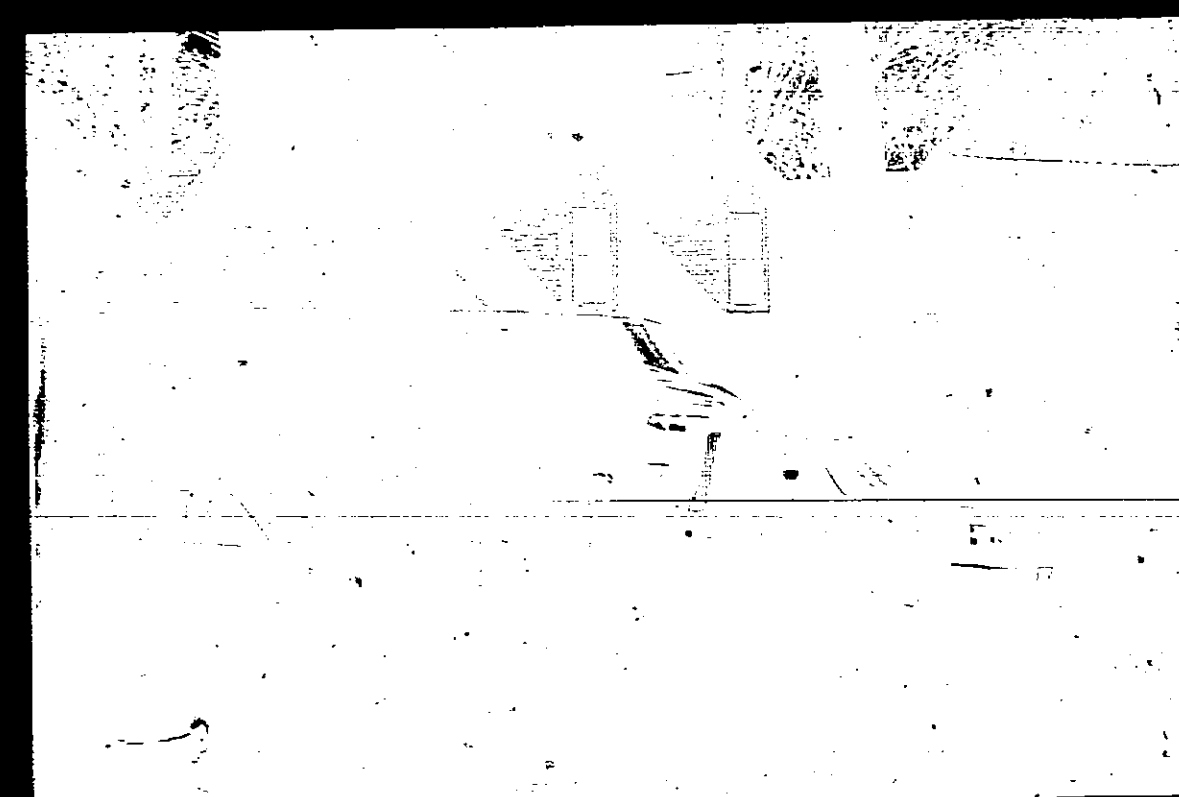
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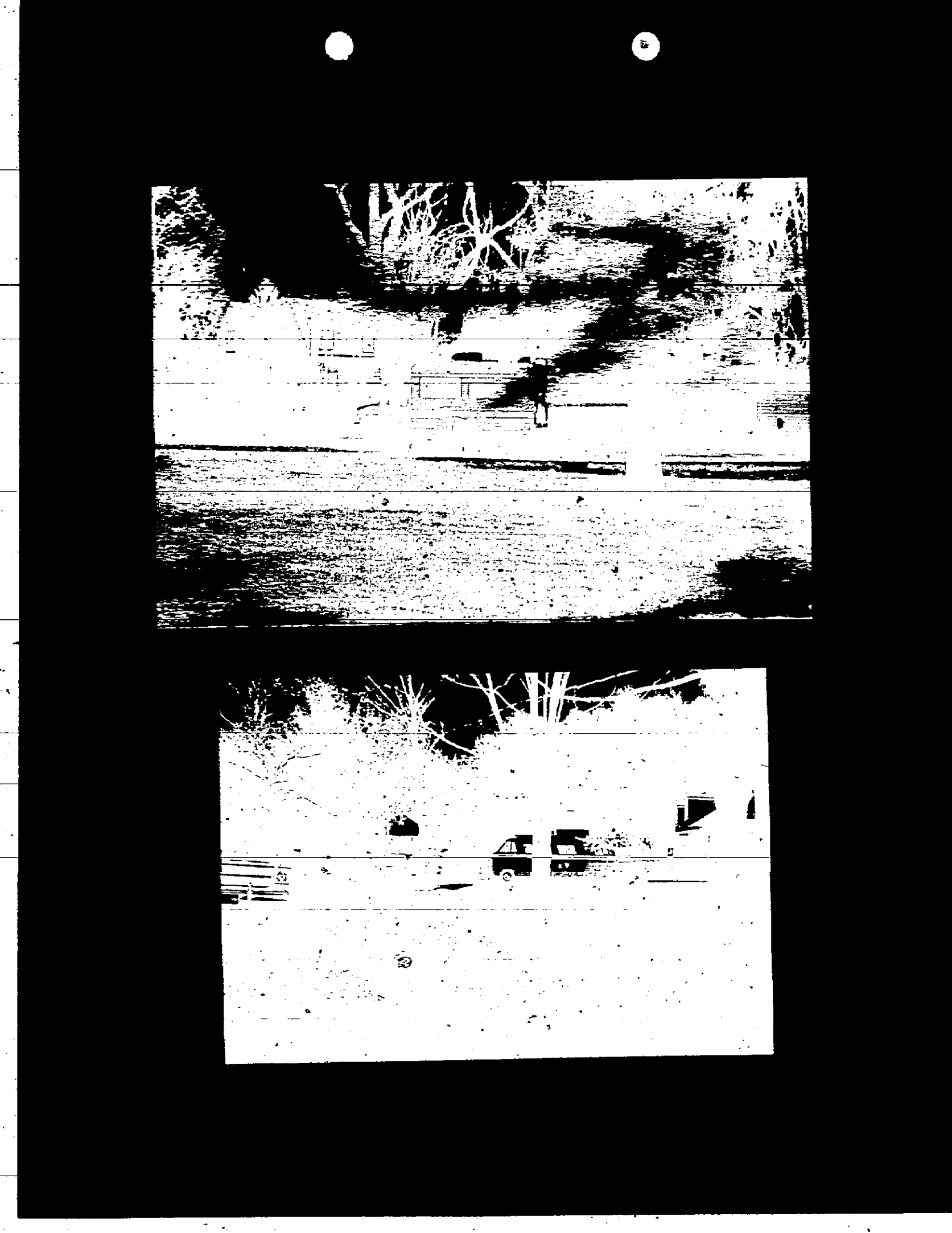
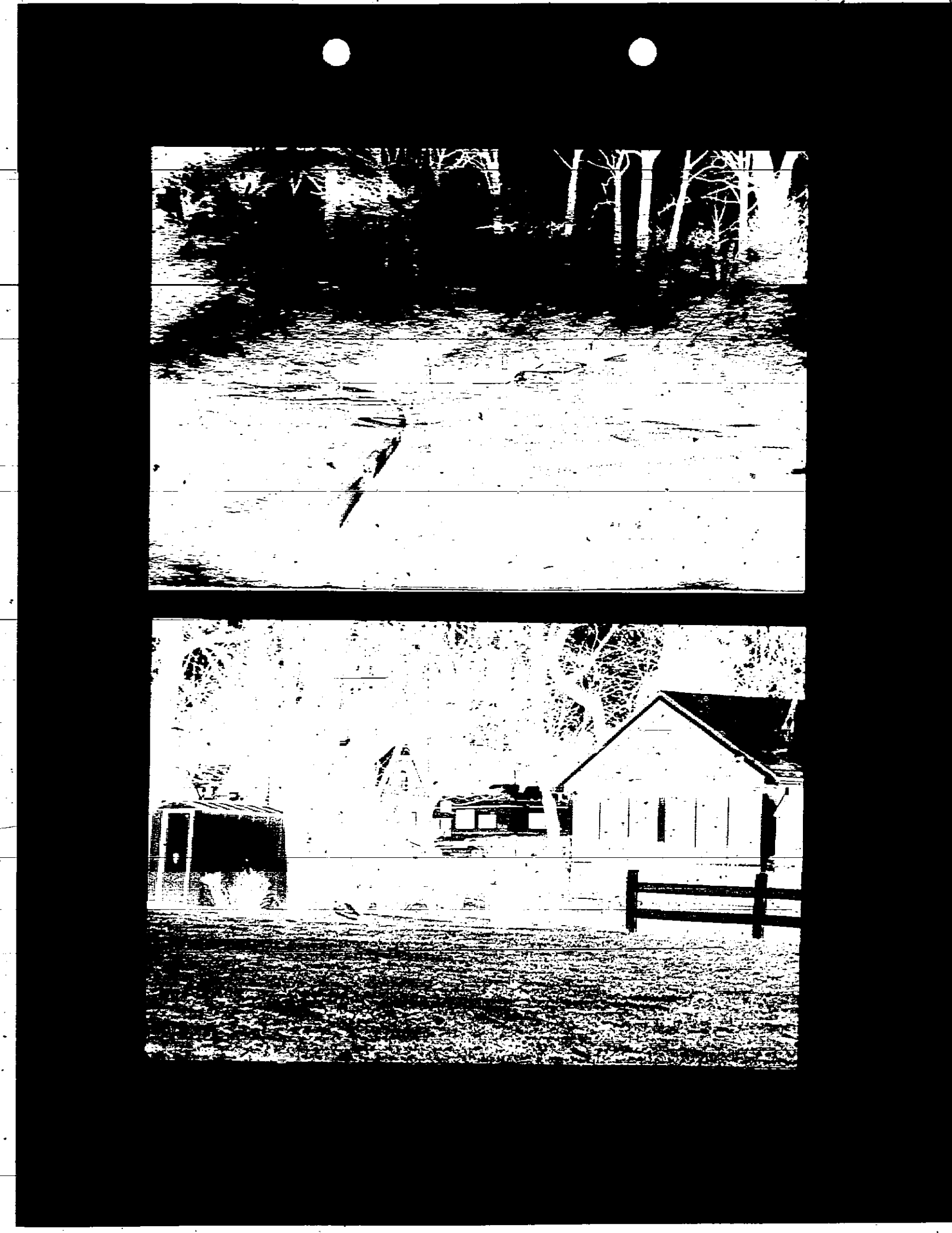
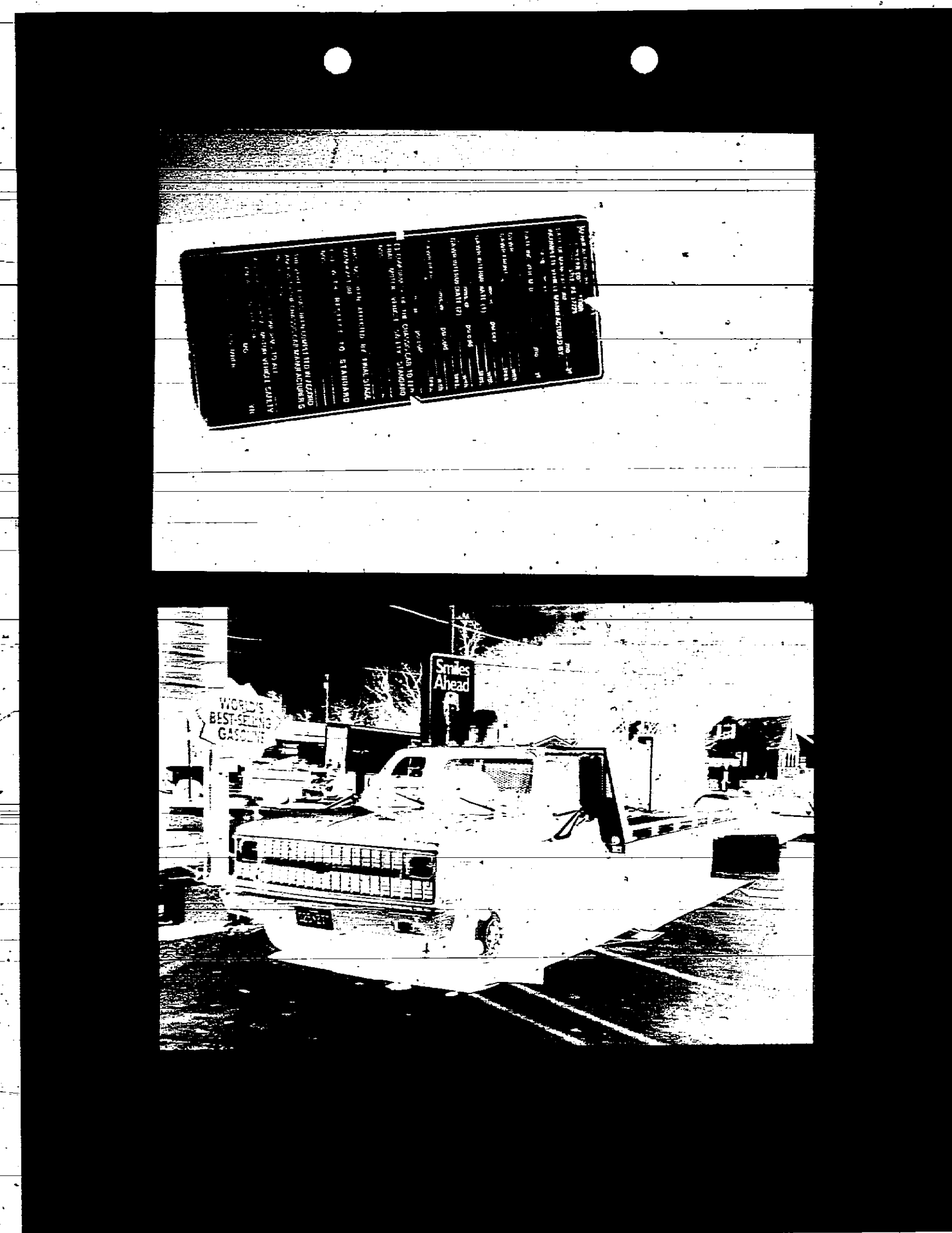
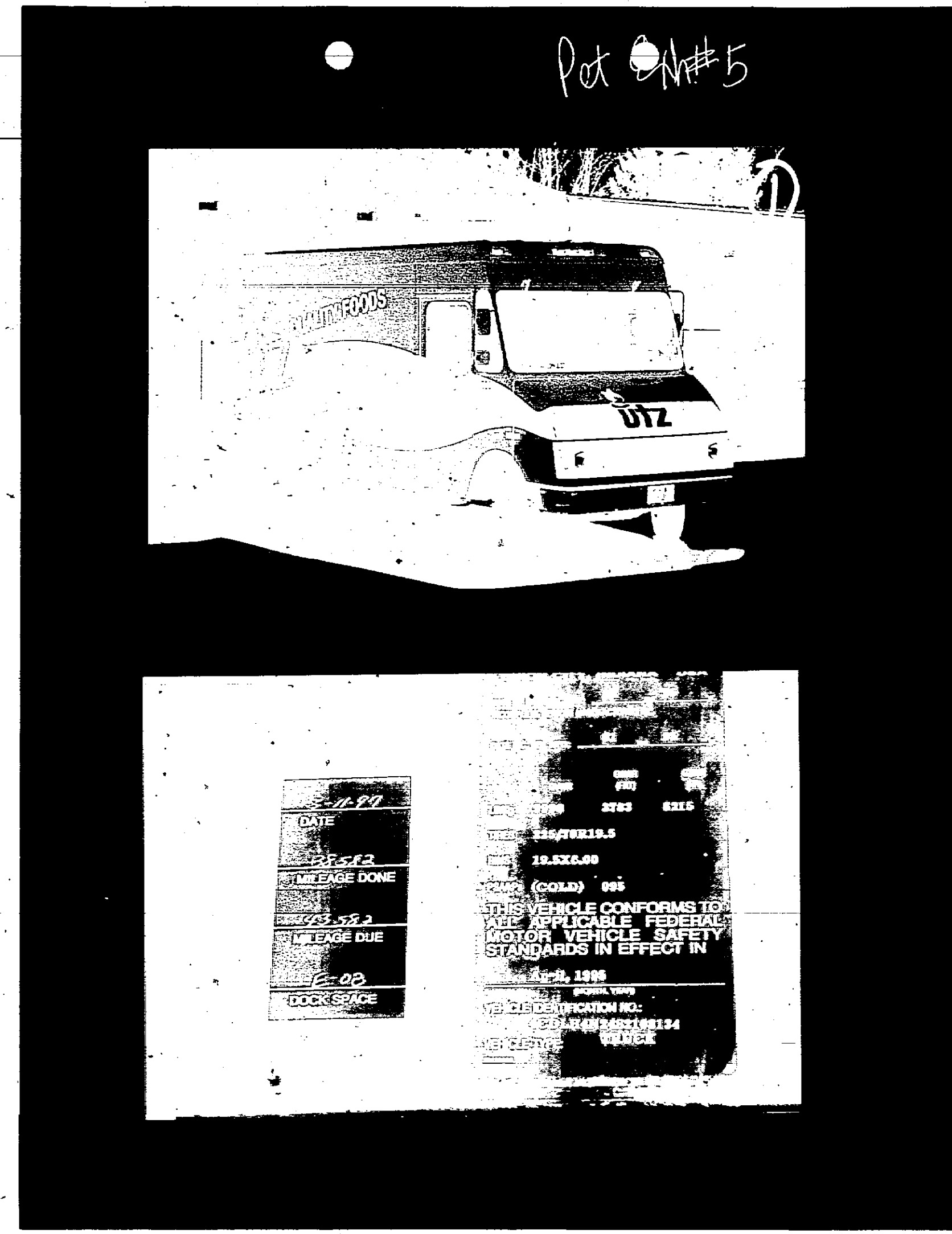
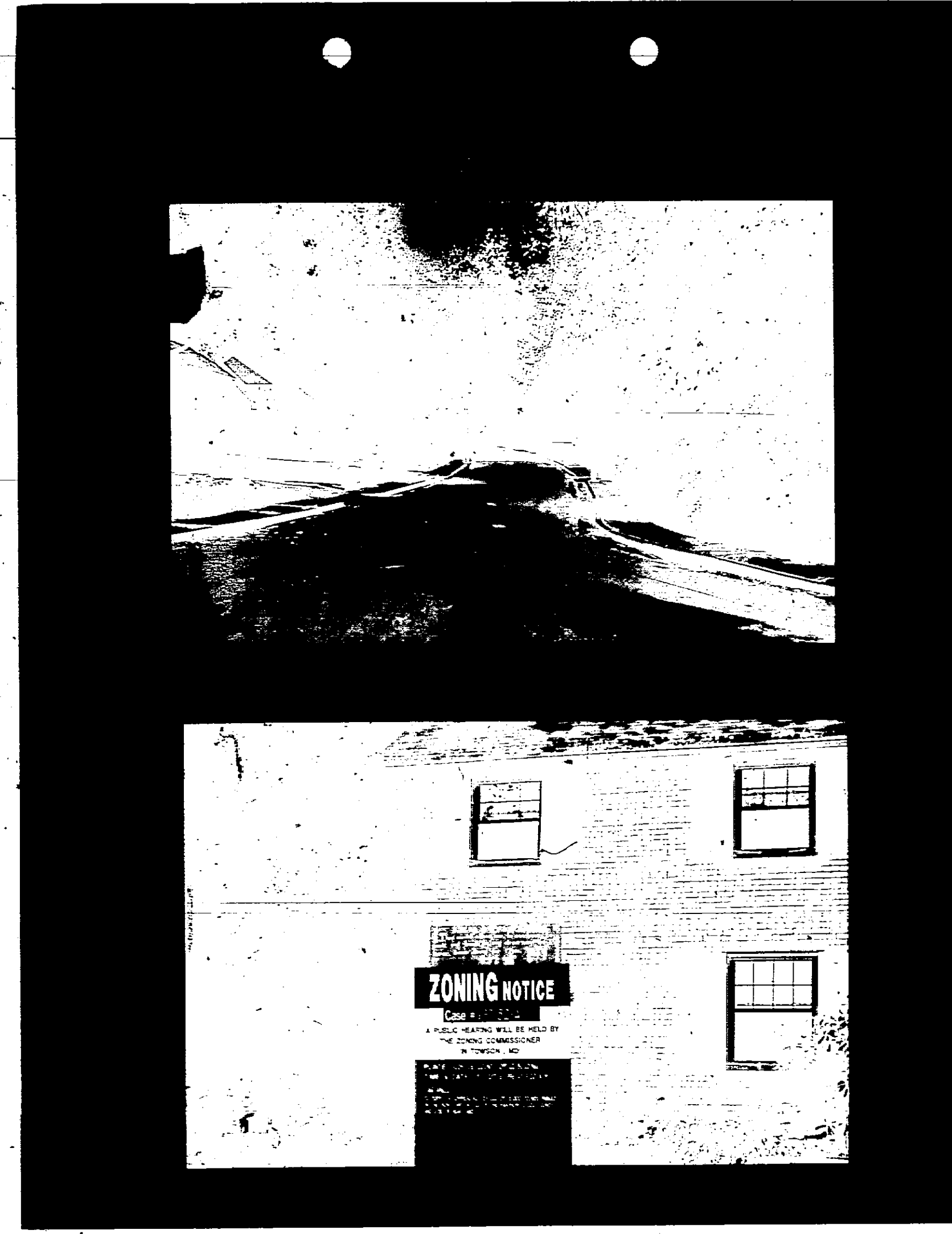
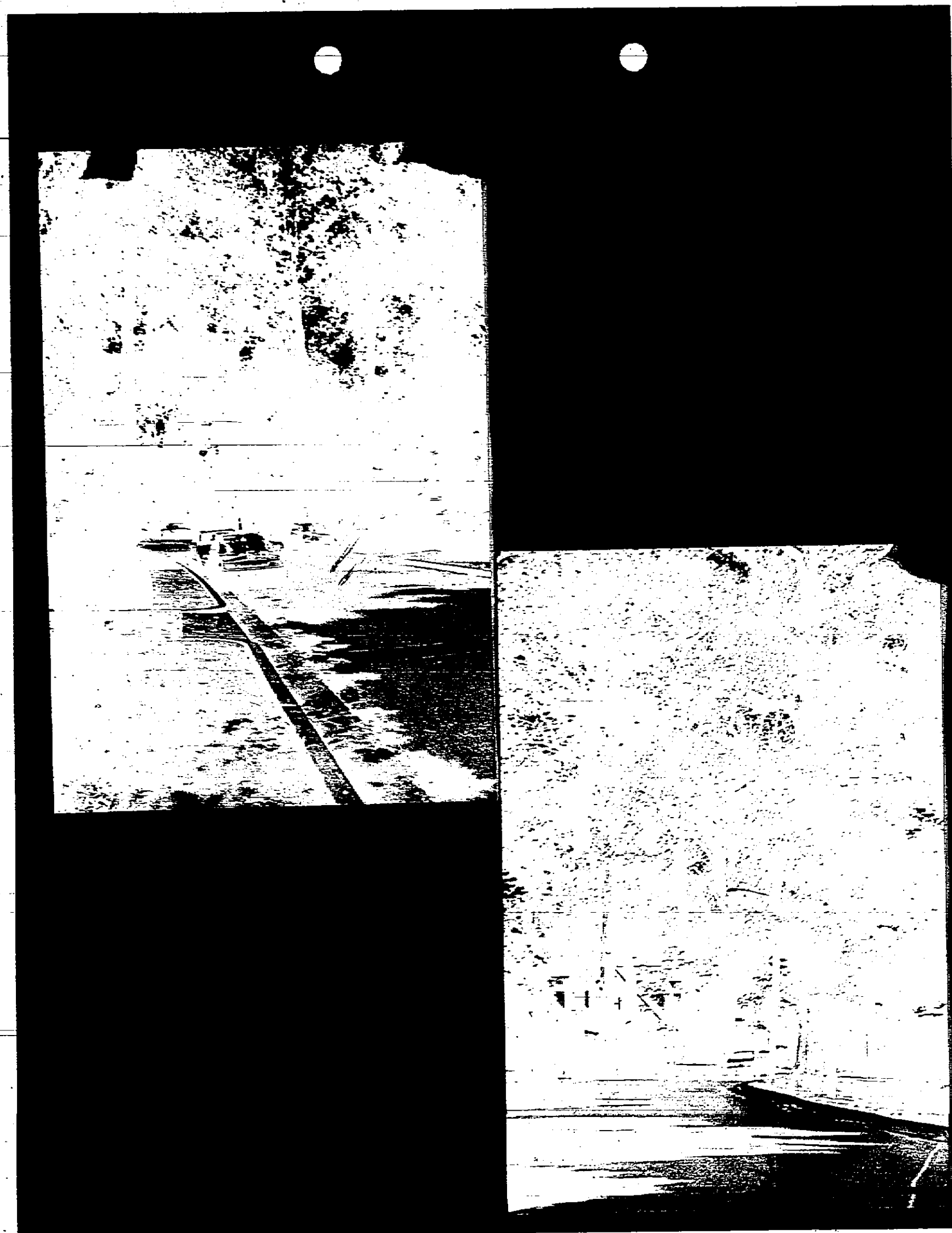
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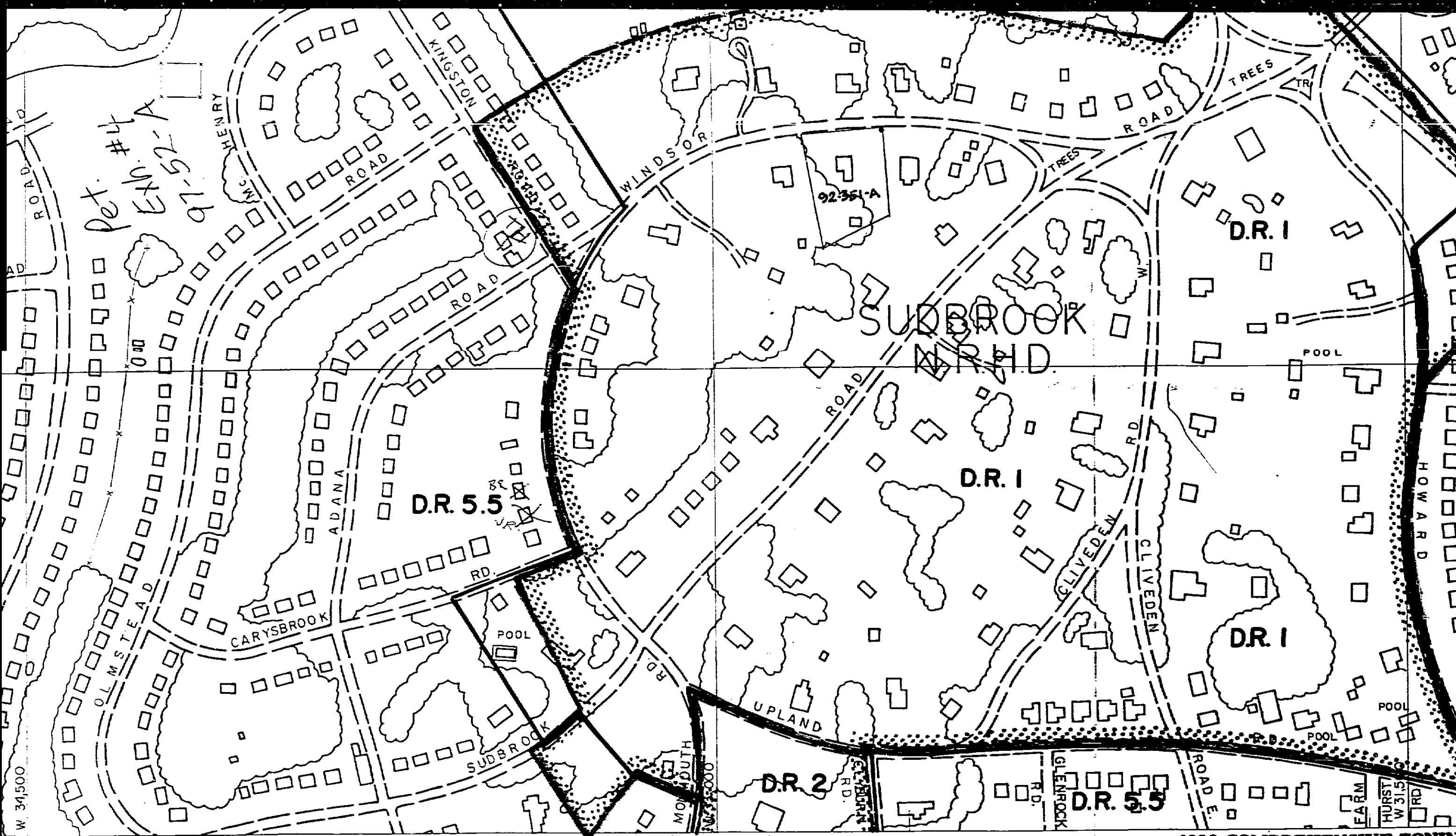


97-52-A
Protestants'
Exhibit #1









BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING
Adopted by the Baltimore County
Oct. 15, 1992

Chairman, County Council



After a century, still a planned community

In Sudbrook Park
they treasure trees,
freedom from crime

By BERN RABINOWITZ

It too frequently happens that a single owner, acting within the structural letter of the law, inadvertently ignores the nature of adjoining property, either by construction of undesirable buildings or objectionable use of those already erected. To prevent the possibility of such a misfortune, the company has adopted restrictions as to the character, location and occupancy of buildings.

So reads an 1890 brochure regarding the first home sales in Sudbrook Park. As one of the first planned communities in Maryland, Sudbrook Park established itself as a residential enclave with its own set of rules and lot size that laid the foundation for modern zoning ordinances.

More than a century later, the 30-acre residential community west of Pikesville is committed to promoting the



Sudbrook stroll: Len and Irene Frank, who are co-presidents of the Sudbrook Park Community Association, take a stroll through their neighborhood.

charm and serenity envisioned by the original architect, Frederick Law Olmsted Jr. Sudbrook Park's neighborhood association has received a \$3,000 grant from the Maryland Historical Society to publish two books — one by Melville Maffey, one by Len and Irene Frank on the community's history, and another by Len Frank on community life — and organize an exhibit and a symposium.

The community also is promoting itself and trying to raise additional money to fund the exhibit and symposium. The books are available for \$10 each. (See Neighborhood, Page 21.)



Sudbrook Park

Location: 560 households, 1,500 residents, 10 minutes from downtown Baltimore. Sudbrook Park is a planned community with its own set of rules and lot size that laid the foundation for modern zoning ordinances. More than a century later, the 30-acre residential community west of Pikesville is committed to promoting the charm and serenity envisioned by the original architect, Frederick Law Olmsted Jr. Sudbrook Park's neighborhood association has received a \$3,000 grant from the Maryland Historical Society to publish two books — one by Melville Maffey, one by Len and Irene Frank on the community's history, and another by Len Frank on community life — and organize an exhibit and a symposium.

Page 21: Sunday, October 13, 1996 • The Sun

REAL ESTATE

Sudbrook Park is one for the books

(Neighborhood, from Page 1)

devise publication of the books through Sudbrook Park's 10th anniversary.

"We don't want to be the only one who understands that Olmsted was the foremost landscape architect," said Anson, who gave up law practice to concentrate on writing.

Olmsted created national landmarks. "Olmsted is probably best known for designing Central Park in New York."

In the Baltimore area, his sons planned Roland Park, Guilford, Homeland, Gilman Island and nearly 800 homes and a town square in Dundalk.

Olmsted trademarks include abundant trees, an entranceway bridge, green spaces, arched streets, mixed lot sizes and curvilinear streets.

"They aren't just curvy streets," said Anson, walking through the quiet neighborhood on a recent evening.

"They merge into the landscape and you can't see them," he said.

Oaks, poplars, elms, chestnuts and maple trees create the neighborhood's lush, wooded feel.

The homes include shingled Dutch Colonial, others that are Queen Anne-style with turrets, and post-World War II brick Colonial.

Anson, who has lived in Sudbrook Park since 1970, said he couldn't recall the suburb's last robbery or car theft.

Baltimore County police said the area has a community patrol group and crime there has decreased in recent years.

Homes on the market range in price from \$115,000 to \$200,000, said Rose Jaeger, a real estate agent with O'Connor, Piper & Flynn.

"It's a nice, stable neighborhood where there's not a lot of turnover at one time because people like it so much," Jaeger said.

"It has a certain charm because the streets meander, there's a lot of shade trees and not much traffic."

Sudbrook Park's history dates to 1876, when Olmsted was asked to plan a village on the Sudbrook estate owned by gentleman farmer James Howard Maffey.

Maffey was named for his grandfather, James Maffey, who was George Washington's

secretary of state. After Maffey's death in 1890, a group of Boston and Philadelphia capitalists formed the Sudbrook Co. and worked with Olmsted on a development plan.

Sudbrook Park was developed with nine "cottages," ranging from a six-room house to a 12-room house for \$45,000.

The Sudbrook Hotel, with its spacious porch, pool and tennis courts, was the social hub of the neighborhood until it burned down in 1928.

The Sudbrook Co. developed 30 percent of the community before it went out of business in 1910, hampered by slow sales and the absence of electric trolley lines to Baltimore.

Construction picked up during World War II, and hundreds of new Colonial-style homes were built on Sudbrook Park's smaller lots.

The suburb built out around 1954.

Since then, the neighborhood has mobilized twice to fight proposed transportation projects that residents said would harm Sudbrook Park's open spaces.

In the 1960s, residents fought plans to build a six-lane highway through Sudbrook Park.

The state dropped the plan after an 18-acre portion of the neighborhood was designated as a national historic site in 1975.

In the late 1970s and early 1980s, residents fought the proposed alignment for the Mass Transit Administration's Metro line.

The MTA agreed to a compromise: building a cut-and-cover of the Olmsted plan intact and clearing lower levels.

In 1983 and 1985, parts of Sudbrook Park were added to the Baltimore County Landmarks Preservation Commission's list of historic sites.

Any construction in the neighborhood would require the commission's approval.

"That is a historical district is a big contributor to the neighborhood's charm," said Irene Frank, co-president of the neighborhood association and a resident since 1964.

"We're very proud of our community because it's rustic."

Sudbrook exhibit

"Olmsted's Sudbrook," the exhibit by the Maryland Historical Society, will run from Nov. 17 to Nov. 19 at the Maryland Historical Society.

The exhibit features a collection of Olmsted's original drawings, photographs and a model of the cottages.

The exhibit is co-sponsored by the Maryland Historical Society, the Baltimore County Historical Trust, and the Friends of Olmsted Park.

The exhibit is open from 10 a.m. to 5 p.m. on Saturdays and Sundays. Admission is \$5 for adults, \$3 for children and \$2 for seniors.

The exhibit is located at the Maryland Historical Society, 101 N. E. St. in Baltimore. For more information, call 333-3378.

The exhibit is a must-see for anyone interested in the history of Baltimore and the work of Frederick Law Olmsted.

The exhibit is a great way to learn about the history of the city and the work of one of its most famous architects.

The exhibit is a wonderful opportunity to see the original drawings and photographs of the cottages and the model of the neighborhood.

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Celebrating a suburban genius

BY SEYI SYMONSON

Frederick Law Olmsted was more than just another suburban planner.

"He was really an artist," says Catherine Maffey, landscape architect and president of the Maffey Associates. "Now so many of his ideas are commonplace, we think of them as 'the way it is'."

But the nature of Olmsted's work was to create a new way of thinking about the city and the suburbs.

Two years in the next couple of weeks, Olmsted, designer of Olmsted's Sudbrook Park and other national landmarks as Maryland's Central Park, Chicago's Lake Park, and several other parks.

The symposium "Sudbrook and the Olmsted Tradition of Community Design in the Baltimore Area" will be at the Maryland Historical Society on Sunday, Nov. 18.

Maffey, the symposium speaker, Olmsted's premier residential commission in Maryland, and look at the principles behind the 1890 design.

The symposium is co-sponsored by the Maryland Historical Society, the Baltimore County Historical Trust, and the Friends of Olmsted Park.

The symposium will also sponsor a tour of Sudbrook Park on Saturday, Nov. 16.

The symposium is a must-see for anyone interested in the history of Baltimore and the work of Frederick Law Olmsted.

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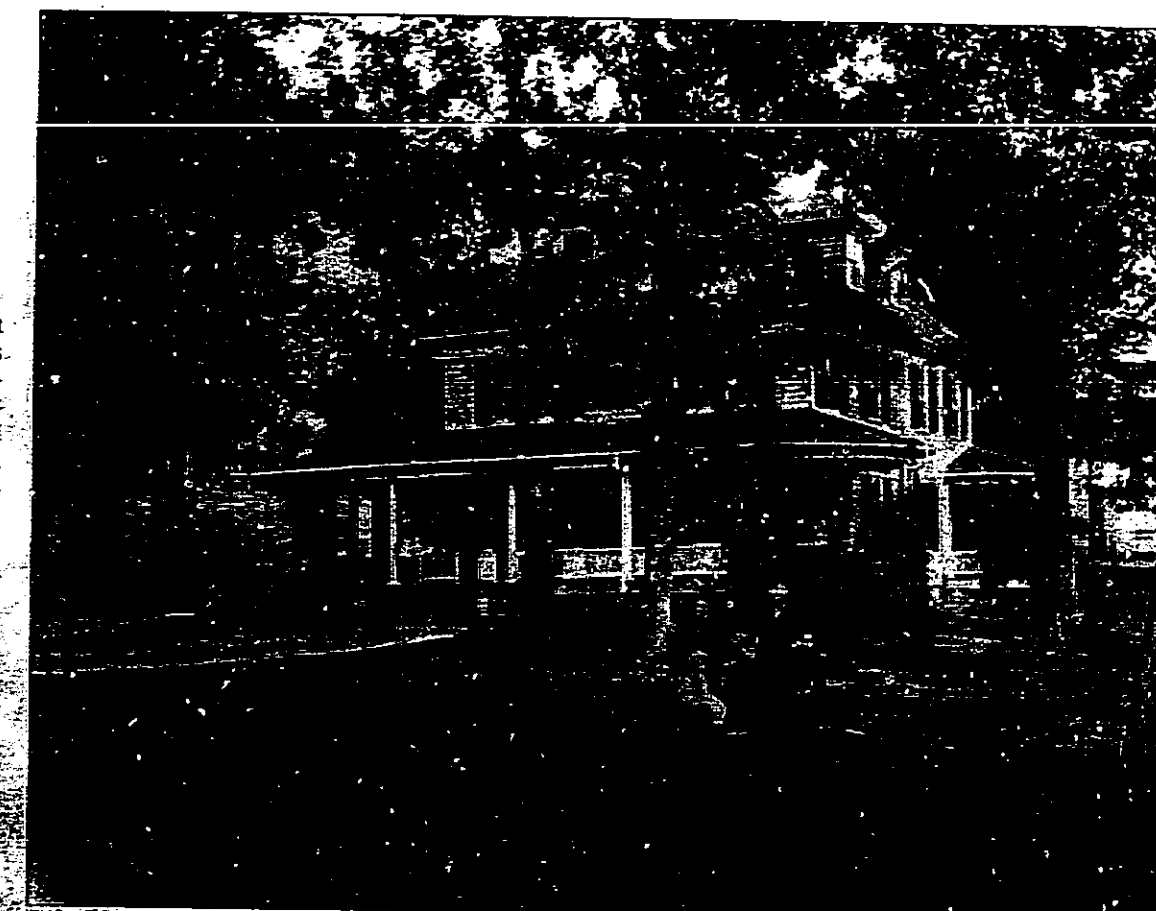
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LIVING



The work of landscape architect Frederick Law Olmsted is being featured in a tour of Sudbrook Park on Nov. 16 and on exhibit at the Maryland Historical Society now through Nov. 17. This home, in the 500 block of Sudbrook Road, is shown here in this 1977 photo and pictures the owners, the Samuel Kemp Merrick family — is featured on the tour. For information, call 235-3378. Exhibit, 685-3750.

Sudbrook Park on display

at Md. Historical Society

Sudbrook Park in Pikesville will be the subject of an exhibit to open on this week at the Maryland Historical Society.

"Olmsted's Sudbrook: The Making of a Community," will open on Friday, Oct. 18 and continue through Nov. 17.

Featured in the exhibit will be photographs of the original cottages, maps and historical artifacts of Sudbrook Park, which was founded by Frederick Law Olmsted.

Olmsted, considered the pre-eminent landscape architect of his time, was a co-designer of New York City's Central Park. He was asked to design a suburban village on 550 acres of land in Pikesville.

The result in 1890 was Sudbrook Park — nine cottages, a hotel, and an abundance of trees designed to create a rural haven.

After more than a century of changes, Sudbrook Park remains an historically important community.

The Maryland Historical Society has planned a symposium, reception and a walking tour on Sunday, Oct. 20 at 2 p.m. to celebrate the exhibit.

For more information, call the Baltimore County Historical Trust at 832-1812.

Metropolitan

PLACES TO LIVE

BEST-LOVED ANCHORMAN REMEMBERED

Baltimore

THE
th
annual



BEST of BALTIMORE

resident Betty Newcomb. At present time, the best house for gardening was on the market, its owners ready for smaller digs.

"It's great for someone who loves roses," because the one-acre lot is unusually sunny, confides Newcomb. "I tried to talk my husband into looking at it."

NEIGHBORHOOD TO WALK TO SCHOOL Rodgers' Forge. At longest, it's a 10-minute trudge through this brick-and-slate enclave to Rodgers' Forge Elementary or Dumbarton Middle School — "unless kids lag or fool around," says resident Honey Holaban. Collapsing must be a constant temptation, given the demographics in this neighborhood south of Towson. "There are always big gaggles of children," says Holaban. Plus, no stop lights and no big roads until you get to Towson Highway, a slightly longer walk.

NEIGHBORHOOD TO USE A WHEELCHAIR Downtown. This was a nightmare: He couldn't find any place where it was easy to maneuver a wheelchair or a stroller. (One group of advocates makes sure business owners near LaSalle include wheelchair access when they do renovations, but that's a long-term goal.) Folks on wheels say the most accessible part of Baltimore is its oldest downtown, between Key Highway and Mt. Vernon.

LITTLE-KNOWN NEIGHBORHOOD WITH BIG-NAME PLANNING Sudbrook Park. On Frederick Law Olmsted's delectable march across Maryland — no, wait, on his helpful visits during the 1890s — the father of all suburbs laid out the then-revolutionary Roland Park. He also dished off plans for a summer resort northwest of town. Today, that resort is Sudbrook Park, an elegant neighborhood of frame and shingle houses conveniently located just inside the beltway near the 7.785 spur. Now, how did Olmsted know they'd put the interstate there?

IN RE: PETITION FOR VARIANCE * BEFORE THE
W/S Windsor Road, 75' N of * ZONING COMMISSIONER
the c/l of Carysbrook Road * OF BALTIMORE COUNTY
(902 Windsor Road) *
2nd Election District *
3rd Councilmanic District * Case No.: 97-52-A
Jake Rubenstein
Petitioner

NOTICE OF APPEAL

Please enter the appearance of Lee R. Jacobson and Jacobson & Myerberg, P.A. on behalf of the above captioned Petitioner.

Please note an appeal to the County Board of Appeals of Baltimore County from the September 17, 1996 decision of the Deputy Zoning Commissioner in the instant matter.

Lee Jacobson
LEE R. JACOBSON
JACOBSON & MYERBERG, P.A.
Suite 320, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
828-7090

Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: PETITION FOR VARIANCE
W/S Windsor Road, 75' N of
the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District
3rd Councilmanic District
Jake Rubenstein, Petitioner
Case No.: 97-52-A

Dear Mr. Jablon:

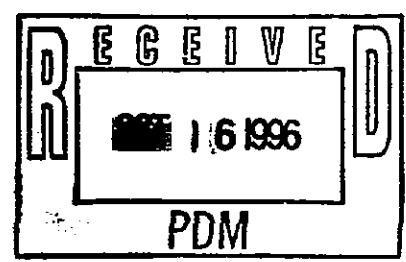
Please find enclosed Notice of Appeal to the County Board of Appeals for Baltimore County for filing in the above captioned matter.

Thank you for your kind attention to the within.

Very truly yours,

Lee R. Jacobson
LEE R. JACOBSON

LRJ:mcm
Enclosure
cc: Mr. Jake Rubenstein



LAW OFFICES
JACOBSON & MYERBERG, P.A.
SUITE 320, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 828-7090
FAX (410) 828-7012

LEE R. JACOBSON
HENRY J. MYERBERG

October 16, 1996

IN RE: PETITION FOR VARIANCE * BEFORE THE
W/S Windsor Road, 75' N of * DEPUTY ZONING COMMISSIONER
the c/l of Carysbrook Road * OF BALTIMORE COUNTY
(902 Windsor Road) *
2nd Election District *
3rd Councilmanic District * Case No. 97-52-A
Jake Rubenstein
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 902 Windsor Road, located in the vicinity of Milford Mill Road in Pikesville. The Petition was filed by the owner of the property, Jake Rubenstein. The Petitioner seeks relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a commercial vehicle of 15,000 lbs. GVW to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 pound vehicle in the side or rear yard. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition was Jake Rubenstein, owner of the property. Many of the residents from the surrounding community appeared in opposition to the Petitioner's request, all of whom signed the Protestants' Sign-In Sheet. The Protestants were represented by two residents of the community who are also attorneys, namely, Jeffrey B. Smith and Melanie Anson.

The property which is the subject of this request consists of 0.17 acres, more or less, and is improved with a two-story single family dwelling and attached garage. Mr. Rubenstein testified that he has been in business as a tow truck operator for many years and that he presently owns

ORDER RECEIVED FOR FILING
Date *10/16/96*
By *LRJ*

and operates a 1991 Ford Rollback tow truck which is the subject of this variance request. Mr. Rubenstein testified that he has resided on the subject property since 1979 and that he has always stored a tow truck in front of his property on the macadam driveway which leads to the garage. He stated that the vehicle he now owns is the third tow truck he has owned over the years and that this particular truck was very expensive and is fully equipped for all towing needs. For security reasons, Mr. Rubenstein would like to continue parking his tow truck at his home. Mr. Rubenstein testified that he works with many businesses and can be reached by a beeper, which goes off all hours of the day and night. He testified that he is on call 24-hours a day and that he often comes home late at night. Due to the nature of his business, it is more efficient for him to keep his vehicle at home so that when he gets a tow call, he can simply leave his house, get into his truck, and go. Mr. Rubenstein would like to continue this practice rather than having to use his personal vehicle to drive to a location where his tow truck would be stored. He further testified that he has checked into parking at alternative locations near his home, but has been unsuccessful in finding a suitable site.

In support of his request, Mr. Rubenstein submitted a Petition which had been signed by many of his neighbors on Windsor Road, as well as others who live elsewhere in the community of Sudbrook Park. The neighbors who signed his Petition indicated that they have no objections to his parking the tow truck on his property. In addition, the Petitioner's neighbors who live next door to him at 904 and 906 Windsor Road, namely Sheldon Brahm and Brian Reynolds, attended the hearing and offered their full support to Mr. Rubenstein.

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ORDER RECEIVED FOR FILING
Date *10/16/96*
By *LRJ*

As noted above, many residents from the surrounding community appeared in opposition to the Petitioner's request. Among those residents who appeared were Leonard Frank, Melanie Anson, Richard Ottenheimer, and a Mr. Mosner, all of whom testified in opposition to the Petitioner's request. There were others in attendance who wished to testify; however, their testimony would have been basically cumulative of the previously identified individuals. The testimony offered by these Protestants demonstrated that the Board of Directors of the Sudbrook Club, the community association which was organized by the residents of Sudbrook Park, have had occasion to deal with this particular issue over the past 15 years. The Protestants offered into evidence as Protestant's Exhibit 2, the minutes of the meeting of the Sudbrook Club Board of Directors, dated August 26, 1981. Those minutes reflect that Mr. Rubenstein's tow truck had been an issue raised before the Board at that time. The issue was never fully resolved at that meeting; however, it was discussed that Mr. Rubenstein would seek a garage in which to store his tow truck. The minutes from that meeting also reflect that the topic of Mr. Rubenstein's tow truck was also discussed in September of 1979, November of 1979, November of 1980 and June of 1981. Furthermore, testimony indicated that since this Board of Directors' meeting in August, 1981, there were several other occasions over the years at meetings of the Sudbrook Club wherein the issue of this tow truck was brought up for discussion. Ms. Anson testified that there were many other issues affecting the community that took priority over Mr. Rubenstein's tow truck. There were times over the years where the issue of Mr. Rubenstein's tow truck was placed on the "back burner", given more pressing matters faced by the community. However, in September, 1995, the community, through its Board of Directors once again,

- 3 -

brought forth a motion to take steps to resolve the issue of Mr. Rubenstein's tow truck once and for all. This lead to the filing of the instant Petition by Mr. Rubenstein. It further lead to a full-fledged zoning sweep of the Sudbrook Park community wherein many other zoning violations were addressed.

In further support of their position, the Protestants submitted into evidence as Protestants' Exhibit 1, a photographic montage of the community. Many of the photographs concentrate on Mr. Rubenstein's house in particular; however, several other photographs show that the community is very attractive, well-maintained, and a nice place to live, as was corroborated by the many witnesses who testified, both for and against the Petitioner's request. The Protestants believe that allowing the storage of this tow truck on Mr. Rubenstein's property will infringe upon and contradict the residential quality and character of this community. The Protestants have asked that Mr. Rubenstein remove the tow truck from his property and find a suitable storage site for this vehicle.

After due consideration of the testimony and evidence offered by Mr. Rubenstein, as well as the Protestants, I am compelled to deny the relief requested. The evidence shows that this issue has been raised several times over the course of the past 17 years by the Sudbrook Club and for whatever reason, the issue was never resolved. As noted above, the evidence presented shows that Sudbrook Park is a very nice residential community, much of which is listed on the National Register of Historic Districts. To allow a tow truck to be stored on Mr. Rubenstein's property would be adverse to the general welfare of this community and would be inconsistent with its location on the National Register of Historic Districts. While it is true that Mr. Rubenstein's particular property at 902

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By *LRJ*

Windsor Road borders this historic district, it is in close enough proximity as to affect the overall character of that historic district. For these reasons, as well as those presented at the hearing, the relief requested shall be denied and the Petitioner shall be required to cease parking the tow truck on his property.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held and for the reasons given above, the Petition for Variance must be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of September, 1996 that the Petition for Variance seeking relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a commercial vehicle of 15,000 lbs. GVW to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 pound vehicle parked in the side or rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petitioner shall have thirty (30) days from the date of this Order in which to find an alternative location for storing this vehicle, after which he must cease parking the subject vehicle on his property; and,

IT IS FURTHER ORDERED that the Petitioner shall have thirty (30) days from the date of this Order to file an appeal of this decision.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date *10/16/96*
By *LRJ*

- 5 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

September 17, 1996

Mr. Jake Rubenstein
902 Windsor Road
Baltimore, Maryland 21202

Re: PETITION FOR VARIANCE
W/S Windsor Road, 75' N of the c/l of Carysbrook Road
(902 Windsor Road)
2nd Election District - 3rd Councilmanic District
Jake Rubenstein - Petitioner
Case No. 97-52-A

Dear Mr. Rubenstein:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Jeffrey B. Smith, 607 Sudbrook Road, Baltimore, Md. 21208

Ms. Melanie Anson, 1007 Windsor Road, Baltimore, Md. 21208

Mr. Leonard Frank, 612 Clivedon Road, Baltimore, Md. 21208

Mr. Richard L. Ottenheimer, Carysbrook Road, Baltimore, Md. 21208

People's Counsel; Case File

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RE: PETITION FOR VARIANCE
902 Windsor Road, W/S Windsor, 75' N of
C/I Carysbrook Road
2nd Election District, 3rd Councilmanic
District
Jake Rubinstein
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 97-52-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROL S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 1996, a copy of the foregoing Entry of Appearance was mailed to Jake Rubinstein, 902 Windsor Road, Baltimore, MD 21208, Petitioner.

PETER MAX ZIMMERMAN
PETER MAX ZIMMERMAN



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 902 Windsor Rd.
97-52-A which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)
431 to permit a commercial vehicle of 15,000 pounds parked in the front yard in lieu of the maximum 10,000 pounds and side or rear yard.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) * Security of truck
* Truck must be at my immediate disposal for job duties
* Current law does not permit me the option to store truck in garage even if that were possible (anywhere in neighborhood.)

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Corrected Petitioner/Developer:

(Type or Print Name)

Signature

Address

City State Zip Code

(Type or Print Name)

Address

City State Zip Code

Address

City State Zip Code

Address

City State Zip Code

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CERTIFICATE OF POSTING

RE: Case No. 97-52-A

Petitioner/Developer:

Date of Hearing/Closing:

Baltimore County

Department of Permitting and Development

County Office Building

111 West Chesapeake Avenue

Towson, Maryland 21204

Development Processing

County Office Building

111 West Chesapeake Avenue

Towson, Maryland 21204

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Development Processing



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 15, 1996

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-52-A (Item 45)
902 Windsor Road
W/S Windsor, 75' W of 2/1 Carybrook Road
2nd Election District - 3rd Councilmanic
Legal Owner(s): Jake Rubinstein

Variance to permit a commercial vehicle of 15,000 pounds parked in the front yard in lieu of the maximum 10,000 pounds and side or rear yard

HEARING: FRIDAY, SEPTEMBER 6, 1996 at 9:00 a.m. in Room 106, County Office Building.

Arnold Jablon
Arnold Jablon
Director

cc: Jake Rubinstein
Commissioner Kevin Kowetz
Leonard Frank
Mel D. Collins
Richard Crandall

NOTES: (1) JUDGING HOW A POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE PUBLIC AFFAIRS; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3351.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 13, 1996

NOTICE OF ASSIGNMENT

CASE #: 97-52-A

IN MATTER OF: JAKE RUBINSTEIN -Petitioner
902 Windsor Road 2nd Election; 3rd Councilmanic
(Petition for Variance DENIED.)

ASSIGNED FOR: WEDNESDAY, MARCH 26, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellant /Petitioner: Lee R. Jacobson, Esquire
Appellant /Petitioner: Jake Rubinstein

Protestants: Jeffrey B. Smith
Melanie Anson and Sudbrook Park, Inc.
Leonard Frank
Richard L. Ottenheimer
J. Carroll Holzer, Esquire
Counsel for Protestants: Arnold Jablon, Director /PDM
People's Counsel for Baltimore County: Pat Keller
Lawrence E. Schmidt: Virginia W. Barnhart, Co Atty

Entered
appeal
2/2/97

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 29, 1996

Mr. Jake Rubinstein
902 Windsor Road
Baltimore, MD 21208

RE: Item No.: 45
Case No.: 97-52-A
Petitioner: Jake Rubinstein

Dear Mr. Rubinstein:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 1, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Rubens in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

Hearing Date
9/6/96

DATE: September 3, 1996

TO: Arnold Jablon, Director, PDM

FROM: Arnold F. "Pat" Keller, III, Director, OP

SUBJECT: 902 Windsor Road

Grounded Comment

INFORMATION:

Item Number: 45

Petitioner: Jake Rubinstein

Property Size:

Zoning: DR 5.5

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

A closer inspection of the 200' scale zoning map revealed that the subject property is located just outside the Sudbrook National Register Historic District. In an effort to preserve the historic character of the adjacent district, the Office of Planning recommends denial of the requested variance.

Prepared by:

Division Chief:

AFK/JL/lw
ITEM45/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, PDM

DATE: August 22, 1996

FROM: Arnold F. "Pat" Keller, III, Director, OP

SUBJECT: 902 Windsor Road

INFORMATION:

Item Number: 45

Petitioner: Jake Rubinstein

Property Size:

Zoning: DR 5.5

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

An inspection of the above referenced property revealed that it is located within a National Register Historic District. In an effort to preserve the historic character of this district, the Office of Planning recommends denial of the requested variance.

Prepared by:

Division Chief:

AFK/JL/lw
ITEM45/PZONE/ZAC1

Baltimore County Government
Fire Department



700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4890

DATE: 08/14/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1103

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF AUG. 12, 1996.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 43, 45, 46, 47, 49, 50, 51, 52, 53 AND 54.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: Aug 13, 1996

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Aug 12, 96

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 43 52
44 53
45 54
47
48
49
50
51

RBS:sp

BRUCE2/DEPRM/TXTS8P

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

To Zoning

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: August 16, 1996

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for August 19, 1996
Item Nos. 043, 045, 046, 047, 050,
051, and 053

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:MCO:jwb

cc: File

ZONE22